

IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*,

Petitioners,

v.

Case No. 2021-1193

Ohio Redistricting Commission, *et al.*,

Respondents.

Bria Bennett, *et al.*,

Petitioners,

v.

Case No. 2021-1198

Ohio Redistricting Commission, *et al.*,

Respondents.

Ohio Organizing Collaborative, *et al.*,

Petitioners,

v.

Case No. 2021-1210

Ohio Redistricting Commission, *et al.*,

Respondents.

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INTRODUCTION

The Ohio Redistricting Commission (“Commission”), on May 5, 2022, resubmitted the third general assembly district plan, which was previously adopted on February 24, 2022 (“Third Plan”).

The Third Plan was resubmitted based on the guidance provided by Secretary of State Frank LaRose (“Secretary LaRose”) detailing why it is too late in the election administration process to utilize wholly new district lines for the 2022 election. The legislative primary elections and November 8, 2022 elections must be conducted in compliance with a vast array of Ohio and Federal law requirements, with deadlines that occur not days or weeks, but months in advance. Indeed, ballots are not first utilized by voters on election day, but rather federal law requires that states send finalized absentee ballots to overseas and absent uniformed services voters “not later than 45 days before the election.” 52 U.S.C. § 20402(a)(8). Prior to those ballots being mailed out, districts must be loaded into each board of elections’ election administration system, candidates given an opportunity to submit their petitions, electors provided the opportunity to challenge a petition, the form of the ballots must be certified, and ballots must be printed. As such, election administration deadlines are not artificial, but rather a real-world acknowledgement of the incredible amount of time and work it takes to properly administer an election.

The Court’s most recent opinion contends that it is “unclear as to why August 2, 2022 is the last available date for a primary election in Ohio[.]” *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-1235, ¶ 68 (“*LWV IV*”). In the Commission’s May 4 and May 5 meetings, however, Secretary LaRose explained at length why, in Ohio, August 2, 2022 is the latest date under Ohio and Federal law to conduct a primary election, and why the enactment of any plan other than the Third Plan would result in the violation of Ohio and

potentially federal law. (May 4 Tr.¹ p 10 at 0:33:53, p 13 at 0:46:02, p 15 at 0:53:50, p 16 at 0:58:50–0:59:06, p 17 at 1:02:37, p 19 at 1:14:32; May 5 Tr.² p 16 at 0:15:13, p 18 at 0:27:52). Accordingly, the realities of administering Ohio elections compelled the Commission to resubmit the Third Plan.

Petitioners contend that the Commission should have re-engaged the independent map makers, or itself continue working on the map that the independent map makers had begun. Those arguments ignore that the independent map makers' map was far from complete, replete with constitutional issues, and had not taken into account substantive input from the Commission members. Furthermore, even if the independent map makers were re-engaged and completed the map some days or weeks later, or if the Commission itself somehow completed and agreed to the map some weeks later, it would still be faced with the same fundamental timing problem, as the administration of the 2022 legislative elections was required to have already begun.

Respondents Senator Robert McColley and Jeffrey LaRe³ (“Respondents”) are mindful that the Third Plan was previously invalidated by the Court. Given the election administration issues described to the Commission and herein, however, they ask that the Court approve the Third Plan and overrule the objections of Petitioners, or defer a ruling on the Third Plan until after the 2022 elections. In the alternative, if the Court invalidates the Third Plan again, Respondents ask the Court to delay requiring any further remedial action by the Commission until after the 2022

¹ References to “May 4 Tr.” refer to the transcript of the meeting of the Commission on May 4, 2022 that is publicly available on its website, <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-may-4-2022-296/transcript-1641.pdf>. Copies of the May 4 and May 5 transcripts are attached hereto as **Exhibit A**.

² References to “May 5 Tr.” refer to the transcript of the meeting of the Commission on May 4, 2022 that is publicly available on its website, <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-may-5-2022-316/transcript-1642.pdf>. Copies of the May 4 and May 5 transcripts are attached hereto as **Exhibit A**.

³ At the time of this filing, Senator McColley and Representative LaRe have replaced President Huffman and Speaker Cupp on the Commission. Due to the expedited timeline of this matter, Notices of Substitution of Parties are forthcoming.

elections, at which time elections will determine which Commission members return to the Commission.

STATEMENT OF FACTS

On May 5, 2022, the Ohio Redistricting Commission (“Commission”) resubmitted the Third Plan to this Court. The Commission resubmitted the Third Plan after receiving detailed guidance from Secretary LaRose, Ohio’s chief elections officer, explaining both that the latest date on which a primary could occur in Ohio is August 2, 2022, and that it would be impossible to administer the August 2, 2022 primary election consistent with Ohio and Federal law if the district lines were different than those in the Third Plan. Accordingly, while they acknowledge that this Court previously invalidated the Third Plan, Respondents respectfully request that the Court either overrule the Petitioners’ objections to use of the Third Plan for the 2022 election in light of the election administration challenges described by Secretary LaRose or, if the Court decides to invalidate the resubmission of the Third Plan, the Court should set the deadline for enactment of a new plan after the 2022 election so that the People of Ohio can decide which Commission members will return to the Commission.

I. The Secretary of State Has Consistently Advised that the Latest Date Ohio can Conduct a Legislative Primary is August 2, and that the Latest Date on Which a District Plan could be adopted was April 20.

It is undisputed that, as Ohio Secretary of State, Secretary LaRose is Ohio’s chief elections officer, with the responsibility to oversee the state’s elections process. After the Commission approved the Third Plan, given the impending primary election and the fact that the Commission had just approved the Third Plan, Secretary LaRose directed county boards of election and his other staff members to move forward with administering the May 3, 2022 state legislative primary elections using the Third Plan. (May 4 Tr. p 13 at 0:46:02, p 16 at 0:59:06, p 19 at 1:14:32). After

the Court invalidated the Third Plan, however, the May 3, 2022 primary election moved forward without state legislative elections on the ballot. Press Release, Ohio Secretary of State, *LaRose Announces Ohio's May 3 Primary is Underway* (April 4, 2022), <https://www.ohiosos.gov/media-center/press-releases/2022/2022-04-04/>.

Thereafter, throughout this litigation and a separate, concurrent federal lawsuit, *Gonidakis v. LaRose*, S.D. Ohio Case No. 2:22-cv-0773, Secretary LaRose has consistently advised both courts and all parties that (1) once the legislative primaries would no longer be conducted on the statutorily prescribed May 3, 2022 date, the latest they could be held in Ohio is August 2, 2022, and (2) if the legislative primaries are held on August 2, 2022, his office must have the finalized state legislative district lines on or before April 20, 2022. *Gonidakis v. LaRose*, No. 2:22-cv-0773, 2022 WL 1175617, *30 (S.D. Ohio Apr. 20, 2022). While this Court expressed doubts with these representations, *League IV*, Slip Opinion No. 2022-Ohio-1235, ¶ 68, the *Gonidakis* Court not only found them credible but utilized them as one of its bases for granting a Preliminary Injunction that would set the legislative primary election for August 2, 2022 and utilize the Third Plan if the state cannot enact a new map prior to May 28, 2022. *See Gonidakis*, 2022 WL 1175617 at * 4, 24–25.

II. The Supreme Court of Ohio Invalidates the Fourth Plan.

On April 14, 2022, this Court invalidated the Fourth Plan, which was passed by the Commission on March 28, 2022. In its decision, the Court declined to accept Secretary LaRose's election administration concerns as reality, stating its belief that “the so-called April 20 ‘deadline’ for implementing a General Assembly-district plan appears to be an artificial deadline that is based on a speculative, potential primary-election date for state legislative races[,]” since other states had primary elections later than August 2nd. *LWW IV*, Slip Opinion No. 2022-Ohio-1235, ¶ 68. As such, the Court ordered the Commission to “be reconstituted, to convene, and to draft and adopt

an entirely new General Assembly-district plan that meets the requirements of the Ohio Constitution, including Article XI, Sections 6(A) and 6(B)” *Id.* at ¶ 78. It further ordered for the Commission to file that entirely new district plan “with the secretary of state by 9:00 a.m. on May 6, 2022, and to file it with this court by noon on the same date.” *Id.* at ¶ 79. Notably, the Court did not provide guidance on how Secretary LaRose could administer a post-August 2nd primary election consistent with Ohio and federal law.

III. The *Gonidakis* Court Orders that if Ohio Does Not Have Legislative Maps in Place by May 28, 2022, It Will Order the Primary to be Conducted on August 2, 2022 Under the Third Plan.

As this Court is aware, on February 18, 2022, a federal lawsuit was filed in the Southern District of Ohio wherein the plaintiffs alleged that the Commission and this Court are at an impasse with respect to the enactment of new legislative districts. *See Gonidakis et al. v. LaRose et al.*, S.D. Ohio Case No. 2:22-cv-0773 at D.E. 1, ¶¶ 1-6; *see also id.* at D.E. 86 at ¶¶ 1-3. As of April 14, 2022, when this Court invalidated the Fourth Plan, pending before the *Gonidakis* Court was plaintiffs’ Motion for Preliminary Injunction, which asked the *Gonidakis* Court to enjoin Secretary LaRose from conducting any elections under Ohio’s current state legislative districts adopted in 2011, establish a schedule to let the *Gonidakis* Court adopt a state legislative district plan, and stay election-related deadlines pending implementation of the Court’s plans. *See id.* D.E. 10 at p 17; *see also* D.E. 96 (Second Motion for Preliminary Injunction, seeking implementation of Third Plan).

On April 20, 2022, the *Gonidakis* Court concluded that it would grant plaintiffs’ Motion for Preliminary Injunction. *See id.* D.E. 196. It found that the plaintiffs were likely to succeed on their claim that Ohio’s failure to hold state legislative primary elections due to the lack of district maps violates plaintiffs’ federal right to vote, and that the proper remedy for that violation was to

order that the state legislative primary elections will use the Third Plan and be scheduled for August 2, 2022 unless the state of Ohio enacts a constitutionally-compliant map and the General Assembly sets a new primary date or amends various laws governing the deadlines for conducting those elections. *Id.* at pp. 33-34, 58.

IV. The Commission Meets After the Primary Election on May 4 and 5, and Votes to Resubmit the Third Plan.

A. May 4, 2022 Commission Meeting.

Ohio's primary elections for, among other offices, United States Senator, Governor, Secretary of State, and Auditor were held on May 3, 2022. The Commission met on the two days after the primary election, May 4 and May 5. During the May 4 meeting, the Commission initially discussed the allocation of additional money from the Legislative Task Force on Redistricting, Reapportionment and Demographic Research to the Democratic and Republican caucuses to be used for redistricting purposes, to which Representative Russo and Senator McColley agreed. (May 4 Tr. pp 3–9 at 0:03:24–0:29:59).

The Commission next discussed Senator Sykes's motion that the Commission re-engage Dr. Douglas Johnson and Dr. Michael McDonald to review their previous work and "continue drawing" the maps on which they were working. (May 4 Tr. p 9 at 0:30:09). After Senator Sykes made his motion, Senator McColley pointed out that there are a number of people already at the Commission's disposal who are qualified to conduct the business of the Commission and draw its maps while still being in compliance with the Court's order. (May 4 Tr. p 10 at 31:25).

Secretary LaRose then described the significant challenges that would be involved in implementing a general assembly district plan produced by Drs. Johnson and McDonald.⁴ (May 4

⁴ At the Commission meetings, Representative Russo contended a number of times that the general assembly district maps that Drs. Johnson and McDonald worked on were "complete." (May 5 Tr. pp 1–2 at 01:55). However, Dr. Johnson, in his affidavit submitted both to this Court in its April 14, 2022 opinion and to the *Gonidakis* court, stated

Tr. p 10 at 0:33:53). He first described a number of the issues that both his staff and boards of elections encountered in administering the May 3 primary election: rushed quality control efforts and testing (resulting in some election day failures); inability to report congressional results on a statewide basis; problems with ballot printing and re-printing, delayed election night reporting; and staff and volunteer burnout due to long days. (May 4 Tr. pp 10–11 at 33:53). Secretary LaRose then informed the Commission, consistent with his previous statements, that August 2, 2022 was the latest date on which a primary election could be held in Ohio, absent emergency action by supermajorities of each house of the General Assembly, that his office needed the final state legislative district lines 104 days prior to August 2 (i.e. April 20th) in order to administer the election. (*Id.*).

Secretary LaRose explained that Ohio elections are conducted on a 90-day timeline, and that the county boards of election need two weeks prior to the start of the 90-day timeline to program the district lines into their computer systems. (*Id.*). Secretary LaRose then gave examples of election-related deadlines if the general assembly primary is held on August 2nd; May 16th to certify the validity and sufficiency of candidate petitions; May 20th for filing of protests to candidate petitions; May 24th for certification of official form of the ballot and for boards of election to certify the names of the candidates; May 27th for write-in candidates; numerous others in June; and the first ballots mailed out in accordance with federal law on June 17th. (*Id.*; *see also* May 4 Tr. p 16 at 0:59:06). In addition, Secretary LaRose later pointed out that this did not even take into account the Ohio Constitution's requirement that provides candidates 30 days to move from the date a new map is adopted. (May 4 Tr. p 16 at 59:06).

that the maps he and Dr. McDonald worked on were indeed incomplete. A copy of the Dr. Johnson Affidavit submitted to this Court on April 4, 2022 is attached hereto as **Exhibit B**.

Secretary LaRose noted that if the Commission passed a map that same day, it would likely be challenged and, given the three-week period of time for the parties to argue over the challenge and the Court to rule, it would then be a week and a half before federally required military ballots would need to be mailed to voters. (May 4 Tr. p 10 at 0:33:53). This would be past a number of statutory and practical deadlines. (*Id.*). Secretary LaRose concluded that he did not see any way the Commission could pass a new map at that point and not compromise the integrity of the election. (*Id.*). See also **Exhibit C** (Ohio Association of Election Officials, “Election Officials Press for August 2 Primary”, April 18, 2022)⁵.

The Commission members then discussed timing issues and potential utilization of the Third Plan, with Representative Russo and Senator Sykes contending that the Commission had time to move forward with a new map, (May 4 Tr. p 12 at 43:16, p 13 at 43:58). Secretary LaRose explained how the Third Plan is already programmed at the county boards of election. (May 4 Tr. p 13 at 46:02).

Auditor Faber⁶ next raised his concerns with re-engaging Drs. Johnson and McDonald. (May 4 Tr. p 15 at 54:39). Auditor Faber testified that he was never able to give input on their maps or offer amendments to their maps, and how he could not evaluate the details of what Drs. Johnson and McDonald did because they did not complete the maps. (*Id.*). Auditor Faber testified that he believed existing staff of the General Assembly were better suited to draw the maps due to the complexity of Ohio law, which Drs. Johnson and McDonald admitted they lacked the requisite knowledge of numerous times. (*Id.*). Auditor Faber also noted that the statement by Secretary

⁵ This press release from the bipartisan organization of Ohio Election Officials explaining why the state legislative primary should occur on August 2, 2022 is publicly available at <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-may-5-2022-316/oaoe-election-officials-press-for-august-2-primary-2022-4-18.pdf>

⁶ Auditor Faber is incorrectly referred to as Governor DeWine in the transcript.

LaRose described an important baseline problem – that Secretary LaRose’s staff could not implement a new map absent emergency legislation and how any new map would have to pass judicial review prior to its implementation. (*Id.*).

Representative Russo and Secretary LaRose then discussed Representative Russo’s concern that it appeared the Commission had no choice in what it could do under Secretary LaRose’s logic. In response, Secretary LaRose explained that it was his job to carry the law out as it is written, and the deadlines he discussed were triggered earlier in the process. (May 4 Tr. pp 16–17 at 1:00:58, p 17 at 1:02:37). Senator McColley, being the Senate Majority Whip, next stated that he did not believe that there would be enough votes in the Senate to pass emergency legislation. (May 4 Tr. pp 17–18 at 1:04:27). He also stated how Drs. Johnson and McDonald were put in a challenging situation with a complex set of constitutional rules, on top of separate guidance set forth by this Court, and that General Assembly staff should be used. (*Id.*). Senator McColley then recited a number of quotes from Drs. Johnson and McDonald during their previous work that appeared to him that they placed such an emphasis on the proportionality and symmetry requirements that they subordinated or disregarded other provisions of the Constitution. (*Id.*). Senator McColley noted that their unfinished maps had 16 constitutional violations that he could see, and described the unnecessary splitting of governmental units to maximize the number of Democratic districts:

- Splitting the City of Dayton (divided into four House districts although it could be placed into one whole and part of a second House district);
- Splitting the City of Toledo (could fit into two whole and part of a third House district but divided into four House districts; also could have fit in one Senate district but split into two Senate districts);

- City of Akron (would have fit in one Senate district and two House districts, but split into two Senate districts and four House districts); and
- City of Cincinnati (would have fit in one Senate district and three House districts, but was split into three Senate districts and six House districts). (*Id.*).

Senator McColley stated that he believed that the best way to remedy this is to reengage the map drawers from both caucuses because they have decades of familiarity with Ohio. (*Id.*).

Shortly thereafter, the Committee voted down Senator Sykes's motion by a vote of two to five, and the Commission thereafter adjourned. (May 4 Tr. p 20 at 1:15:57).

B. May 5, 2022 Commission Meeting.

The Commission next met on May 5, 2022. Shortly after the meeting started, Representative Russo moved the Commission to approve general assembly district maps that legal counsel for the *Bennett* Petitioners uploaded to the Commission's website (the "Bennett Petitioners' Map") after the Commission's meeting on May 4, 2022. (May 5 Tr. pp 1–2 at 01:55). Representative Russo contended that the Bennett Petitioners' Map was a modified version of the map on which Drs. Johnson and McDonald worked, that the map is constitutional, and that the Commission should enact the map. (*Id.*).

Senator McColley objected to the use of the Bennett Petitioners' Map, noting that Dr. Johnson had described in his affidavit that many districts in that map came directly from the Democratic caucus consultant, a violation of the Commission's rules under which the "independent" maps were supposed to be drawn. (May 5 Tr. p 2 at 0:03:43). Senator McColley also pointed out that there were changes made to the Bennett Petitioners' Map that were done completely outside the purview of the Commission by a retained expert witness, and thus could not be considered an independent map. (*Id.*).

Representative Russo, without evidence, contended that the map was constitutional and “verified.” However, Auditor Faber stating that he did not learn about the Bennett Petitioners’ Map until 3:00 p.m. earlier that day, had no opportunity to offer input on it, and that the Bennett Petitioners’ Plan had been gerrymandered in favor of one of the political parties. (May 5 Tr. p 3 at 0:07:43–0:08:44). After the discussion from the members of the Commission, Representative Russo’s motion failed by a vote of two to five. (May 5 Tr. p 5 at 0:14:09).

Senator Sykes next recognized Secretary LaRose. (May 5 Tr. p 6 at 0:15:12). Secretary LaRose noted for the Commission that he had a prepared statement and he distributed it to the Commission. *Id.*; see **Exhibit D** (May 5, 2022 Statement of Secretary LaRose to Commission)⁷. In his statement, Secretary LaRose provided more detail about the election administration concerns he described in the May 4th Commission meeting, including:

- Because August 2, 2022 is already set aside as the date for a special election and it is the latest date on which an election can take place without overlapping the November 8, 2022 election, it is the latest date on which a primary can occur;
- Ohio elections are administered on a 90-day calendar, with two weeks prior allowed for the programming of districts into election computers;
- If the general assembly primary were to be held on August 2, 2022, ballots have to be sent out on June 17, 2022 to comply with federal law;
- To meet that deadline, the state must certify candidates for office, allow for candidate protests to occur, determine the validity of candidate petitions and protests, receive write-in candidates and declarations of intent for partisan office, address protests to write-in

⁷ The May 5, 2022 Statement of Secretary LaRose to the Commission is publicly available at <https://redistricting.ohio.gov/assets/organizations/redistricting-commission/events/commission-meeting-may-5-2022-316/statement-to-commission-by-secretary-larose-2022-5-05.pdf>.

candidates, certify the form of the official ballot, and, for boards of election to certify the names of all candidates before June 17th.

(*Id.*). After Secretary LaRose read his statement, Senator McColley moved that the Commission resubmit the February 24, 2022 Commission adopted plan to the Secretary of State's office, only for use in the 2022 election, in light of the issues described by Secretary LaRose and the other discussions among the Commission that day. (May 5 Tr. p 18 at 0:25:35). Representative Russo contended that the timing issues raised by Secretary LaRose did not matter but, instead, the only issue that the Commission was supposed to consider was whether the map before it was constitutionally compliant. (May 5 Tr. p 18 at 0:26:41). Secretary LaRose responded by stating that he is unwilling to put his election officials in an untenable situation through the approval of a map which lacked the requisite legal structure to conduct the election. (May 5 Tr. pp 18–19 at 0:27:52). Secretary LaRose also noted that he did not have the same confidence that Representative Russo had that the Bennett Petitioners' Map was "perfectly void of any constitutional violations." (*Id.*).

Senator Sykes then interposed another motion to recess the Commission meeting in order to seek advice from counsel on the potential resubmission of the Third Plan. (May 5 Tr. p 19 at 0:28:52). That motion was defeated, two to five. (May 5 Tr. p 20 at 29:58). Thereafter, the Commission voted four to three to approve Senator McColley's motion to resubmit the February 24, 2022 plan. (May 5 Tr. p 21 at 32:44). Senator Russo thereafter read the minority report into the record, and the meeting was adjourned. (May 5 Tr. p 22 at 33:54).

LEGAL BACKGROUND

On September 16, 2021, the Commission adopted its first general assembly district plan ("First Plan"). *See League of Women Voters v. Ohio Redistricting Commission*, Slip Opinion No.

2022-Ohio-65, ¶ 24 (“*LWV I*”). In *LWV I*, the Ohio Supreme Court held that the percentage of Republican leaning and Democratic leaning districts in the First Plan violated Article XI, Sections 6(A) and 6(B). The Court concluded that the First Plan violated both Sections 6(A) and 6(B) because the number of Republican and Democratic leaning seats did not correspond closely to the statewide preferences of Ohio voters. *Id.* at ¶ 108. The Court first stated that under the methodology required by Section 6(B) over “the relevant period, about 54% of Ohio voters preferred Republican candidates and about 46% of Ohio voters preferred Democratic candidates.” *Id.* at ¶ 108. In contrast, the Court found that “under the adopted plan, Republicans are favored to win between 61 and 68 House seats and between 20 and 24 Senate seats.” *Id.* at ¶ 121. The Court held that the Commission did not “attempt” to adopt a plan that complied with Section 6(B). *Id.* at ¶¶ 102-121.

While the Court agreed that “Ohio’s political geography poses challenges in the drawing of overall Article XI compliant districts,” *Id.* at ¶ 128, it did not explain the percentage of vote which must be found in any district before it can be classified as “favoring” or “leaning” Republican or Democratic candidates. All of the experts who offered testimony during this phase of the litigation treated a district as leaning or favoring one party or the other based upon which party scored a majority of the vote percentage even if it was a bare majority. While the Court mentioned the partisan symmetry test, it did not state where on any partisan symmetry analysis any adopted plan was required to fall in order to correspond closely to the statewide proportion of vote share, as calculated under the methodology stated in Section 6(B). Perfect partisan symmetry was certainly not mentioned as a requirement. The Court clearly agreed that something other than perfect scores under any of the Petitioners’ tests could not be achieved because of the “political geography challenges in the drawing of overall compliant districts.” *Id.* at ¶ 128.

In response to the Court's order in *LWV I*, the Commission adopted a second plan on January 22, 2022 ("Second Plan"). See *League of Women Voters v. Ohio Redistricting Commission*, Slip Opinion No. 2022-Ohio-342, ¶ 2 ("*LWV II*"). The Second Plan included 57 Republican leaning and 42 Democratic leaning House Districts, 20 Republican leaning Senate Districts, and 13 Democratic leaning Senate Districts. The Court invalidated that plan as well but this time because there were too many Democratic leaning districts that were between 50-51%. However, there was no discussion of whether it would be constitutionally permissible to label a district as Democratic leaning if the district had a vote share of 52 to 53% even though several Democratic districts in this range were present in the Second Plan. *LWV II*, ¶ 57. No further guidance was provided by the Court regarding the tests that must be used for the Commission to adopt a plan that complies with Section 6(B). The Court ordered the Commission to adopt a new plan.

The Commission adopted the Third Plan on February 24, 2022. Petitioners objected to the Third Plan, largely on the grounds that, based on the election composite, there were numerous democratic districts between the 51-52% range. Respondents countered that the Court did not set a bright line test for the "symmetry" required in *LWV II*, but that the Court had relied on Dr. Imai's simulations and reports that examined the number of districts between 50-51%. Based on this, the Commission had tried to achieve better symmetry within the 50-51% range. Relying on expert reports from Dr. Latner and Dr. Rodden, the Court moved the "symmetry" goal posts and determined that districts between 50-52% were "competitive" and therefore subject to some sort of symmetry requirement. *League of Women Voters of Ohio v. Ohio Redistricting Comm.*, Slip Opinion No. 2022-Ohio-789, ¶ 42 ("*LWV III*"). The Court still did not provide the outer limit in which the Court would deem a district "too" competitive.

From March 21, 2022⁸ to March 28, 2022, Commission engaged independent map drawers who conducted public map drawing in an effort to draw their own legislative district maps. However, after Drs. Johnson and McDonald were unable to complete their maps by the deadline set by the Court, the Commission passed a fall-back plan to meet the Court's deadline. That plan was a least change version of the Third Plan whereby the Commission attempted to address the concerns identified by the Court in its opinion invalidating the Third Plan. The Court then invalidated the Fourth Plan, stating that districts between 50-52% were subject to a symmetry requirement and applying a 2% uniform swing analysis, and directed the Commission to redraw. *League of Women Voters of Ohio v. Ohio Redistricting Commission*, Slip Opinion No. 2022-Ohio-1235, ¶¶ 63-73 (“*LWV IV*”). In coming to its decision, however, the Court gave little weight to Secretary LaRose's election administration concerns about both August 2 being the last date available for the primary elections or the other election-related deadlines, stating that “on the record before us, the so-called April 20 ‘deadline’ for implementing a General Assembly–district plan appears to be an artificial deadline that is based on a speculative, potential primary-election date for state legislative races.” *Id.* at ¶ 68. The record here, however, demonstrates that the April 20th deadline was not “artificial” but, in fact, a legitimate and practical deadline, consistent with the requirements of state and federal law, necessary to enable the head of Ohio's elections to properly administer the state's general assembly primary elections if they occur on August 2, 2022.

ARGUMENT

I. The Court Should Reject Petitioners' Objections to the Resubmitted Third Plan.

⁸ Though approved on March 21, 2022, the independent map drawers were not able to get to Ohio until March 23, 2022.

As an initial matter, Petitioners do not meaningfully address the election administration concerns raised by Secretary LaRose other than to contend that the issues are either not real or are easily solvable. (*See generally* Bennett Petitioners’ Objections of May 6, 2022). There is no evidence in the record, however, supporting Petitioners’ view that a new plan can be easily implemented in time for the election to be properly, much less lawfully, administered. In fact, the evidence here is that utilization of the Third Plan is necessary for the time remaining in the 2022 election cycle, and any further changes to Ohio’s election procedures would likely come into conflict with the United States Supreme Court’s decision in *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006). Petitioners’ objections should be rejected.

A. Use of the Third Plan is Necessary for the Orderly Administration of the 2022 General Election.

1. Ohio and Federal law set mandatory deadlines for election administration.

“State and local election officials need substantial time to plan for elections.” *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring). “Running elections state-wide is extraordinarily complicated and difficult.” *Id.* “Those elections require enormous advance preparations by state and local officials, and pose significant logistical challenges.” *Id.*, *see also* *Gonidakis v. LaRose*, No. 2:22-CV-0773, 2022 WL 1175617, at *21 (S.D. Ohio Apr. 20, 2022). “The Ohio Elections Calendar weaves together countless intricate and interdependent dates and procedures.” *Gonidakis*, 2022 WL 1175617, at *22. “Judges simply cannot know all the consequences when [they] start tugging on those strings.” *Id.* But what is known is that when the deadlines are put together, the administration of elections in Ohio takes approximately 90 days. (*See Exhibit E*, 2022 Elections Calendar with statutory reference to dates). Some of these dates include:

- Certifying candidates no later than 78 days before the primary election. Ohio R.C. § 3513.05.
- Holding protests against certified candidates no later than 74 days before the primary election. Ohio R.C. § 3513.05.
- Determining the validity or invalidity of declarations of candidacy and petitions. Ohio R.C. § 3513.05.
- Receiving write-in candidates declarations of intent for partisan offices no later than 72 days before the primary election. Ohio R.C. § 3513.041.
- Holding protests against write-in candidates no later than 67 days before the primary election. Ohio R.C. § 3513.041.
- The Secretary of State must certify to boards of elections the form of official ballots no later than 70 days before the primary election. Ohio R.C. § 3513.05.
- Board of elections of the most populous county in a multi-county district must certify names of all candidates to the other county boards of elections in the district no later than 70 days before primary election. Ohio R.C. § 3513.05.

On top of these dates, the State’s board of elections need a map to load into their systems. “As the facts of this case illustrate in painful detail, mapmaking is not a fast or easy process, even for the quickest experts.” *Gonidakis*, 2022 WL 1175617, at *28. “And judges are typically neither quick nor experts in this realm.” *Id.* Once a map is determined, boards of elections need at least two weeks to reprogram voter registration and tabulation systems to accommodate a new map. *See Gonidakis*, 2022 WL 1175617, at *24.

Considering residency issues for candidates and more, *see* Ohio Constitution, Article XI, Section 9(c) (allowing candidates 30 days after a new map to move to new districts); Ohio R.C. §

3513.263 (setting deadlines of 90 days before election for nominating petitions and 74 days for protests), is why all the parties in the federal court action agreed that April 20 is the drop-dead date to implement a new map under current law.⁹ *Gonidakis*, 2022 WL 1175617, at *24. As correctly noted by the federal court, “some of the statutory periods have already gone into effect under Map 3, such as the 30 days for candidates to move and 90 days to register.” *Gonidakis*, 2022 WL 1175617, at *24. “And 80 of 88 county boards have already loaded Map 3 into their systems, potentially saving weeks of work, time, and money.” Implementing the Third Plan for an August 2, 2022 primary election date is the only way to meet Ohio’s requirement that a primary election be held.

2. August 2nd is the latest date on which a primary election can be held in Ohio in order to comply with Ohio and Federal election administration law.

Petitioners ask this Court to change the law and move the primary; but, it cannot—as even Petitioners concede. The Ohio Constitution establishes November 8 as the date of the general election for 2022. *See* Ohio Constitution, Article XVII, Section 1. The general election must also be administered consistent with interwoven state and federal deadlines, which takes approximately 90 days. That is why Ohio law establishes a special election date of the first Tuesday after the first Monday in August as a possible statewide election day. *See* Ohio R.C. § 3501.01(D). By established law, August 2 can work in conjunction with the established fabric of dates for the November 8th general election, and in particular for a year in which the timing of the primary election for general assembly districts turned out to be impossible to meet. *Gonidakis*, 2022 WL

⁹ Counsel for the Bennett Petitioners and the League of Women Voters Petitioners also intervened in the *Gonidakis* case. *Gonidakis v. LaRose*, No. 2:22-cv-07732022 WL 1175617, *8 (S.D. Ohio Apr. 20, 2022). In entering the preliminary injunction, the *Gonidakis* Court found that “every party” in the litigation agreed that April 20 is when “a map would have to be in place for the state to conduct a primary that both complies with state election law and allows for an orderly general election in November.” *Gonidakis v. LaRose*, No. 2:22-cv-07732022 WL 1175617, *2 (S.D. Ohio Apr. 20, 2022) (“Putting these facts together, all parties agree that April 20 is the drop-dead date to choose a new map that can be implemented in time for a primary and general election.”).

1175617, at *22 (“In addition to falling at the end of the period when Ohio could hold a primary without disrupting the general election, [August 2] has the added benefit of aligning with pre-set special elections in the State.”).

Even if this Court had the ability to change a date of an election, create its own map, or order a particular map to be implemented, which it does not, *see* Ohio Constitution Article XI, Section 9(D) (1)-(2), Ohio R.C. § 3501.40, August 2, 2022 is the only viable election date unless this Court wants to risk the administration of the 2022 election, confuse the electorate, and drive down turnout. These risk factors, which increase closer to the election date, can and have played a role in conducting elections under an invalid map. *See Reynolds v. Sims*, 377 U.S. 533, 585 (1964) (“[U]nder certain circumstances, such as where an impending election is imminent and a State's election machinery is already in progress, equitable considerations might justify a court in withholding the granting of immediately effective relief in a legislative apportionment case, even though the existing apportionment scheme was found invalid.”); *Covington v. North Carolina*, 270 F. Supp. 3d 881, 899-901 (M.D.N.C. 2017) (proceeding with an invalidated map for a single election because election administration, voter confusion, candidate campaign issues, lack of time to draw and judicially review a new map were all factors against trying to run a special election); *Gonidakis*, 2022 WL 1175617, at *25, 27. The fact that Ohio law already has a safety valve in its regularly scheduled August special election that meshes with the general election, makes it the only viable choice as the final date for a primary election this year under the current circumstances.

B. Further change to Ohio state legislative districts is foreclosed by *Purcell*.

Considerations described in *Purcell v. Gonzalez*, 549 U.S. 1, 4-5 (2006) counsel the Court to reject the objections of Petitioners and overrule objections to the Third Plan. The record here demonstrates that additional delays will create “significant logistical challenges” that require

“enormous advance preparations.” *Merrill v. Milligan*, 142 S. Ct. 879, 880 (2022) (Kavanaugh, J., concurring in grant of applications for stays).

The United States Supreme Court held in *Purcell* that “[c]ourt orders affecting elections, especially conflicting orders, can themselves result in voter confusion and consequent incentive to remain away from the polls. As an election draws closer, that risk will increase.” Since then, the United States Supreme Court has consistently limited the ability of courts to alter state election laws and processes close in time to elections. *See Andino v. Middleton*, 141 S. Ct. 9, 10 (2020) (Kavanaugh, J., concurring in grant of stay application); *see also Milligan*, 142 S. Ct. at 879 (Kavanaugh, J., concurring); *Merrill v. People First of Ala.*, 141 S. Ct. 25 (2020); *Merrill v. People First of Ala.*, 141 S. Ct. 190 (2020); *Clarno v. People Not Politicians*, 141 S. Ct. 206 (2020); *Little v. Reclaim Idaho*, 140 S. Ct. 2616 (2020); *Republican Nat’l Comm. v. Democratic Nat’l Comm.*, 140 S. Ct. 1205 (2020) (per curiam); *Democratic Nat’l Comm. v. Wisc. State Legislature*, 141 S. Ct. 28 (2020) (declining to vacate stay); *Benisek v. Lamone*, 138 S. Ct. 1942 (2018) (per curiam); *Veasey v. Perry*, 574 U.S. 951 (2014). Recently, in *Merrill v. Milligan*, the Supreme Court stayed an injunction that would have overturned Alabama’s congressional districts four months before primaries were set to occur. 142 S. Ct. 879, (2022) (Mem.); *see also id.* at 889 (Roberts, C.J. dissenting) (describing election deadlines in Alabama). Justice Kavanaugh’s concurrence heavily relied on the principles underlying *Purcell* in his concurring opinion and explained that “practical considerations sometimes require courts to allow elections to proceed despite pending legal challenges.” *Id.* at 882 (quoting *Riley v. Kennedy*, 553 U.S. 406, 426 (2008)) (internal quotation marks omitted). To the extent that Petitioners argue that *Purcell* does not apply to state court orders, that issue has not been conclusively determined by the Supreme Court, and a more reasonable view of *Purcell* is that the Supreme Court will ultimately hold that whenever any court

– federal or state – interferes with the federal right to vote too close to an election, *Purcell* applies to foreclose such action. *See Republican Party of Pa. v. Boockvar*, 141 S. Ct. 643 (2020) (deadlocking 4-4, prior to the confirmation of Justice Barrett, on request for emergency stay of action of Pennsylvania Supreme Court).

Here, the primary for every race except for state legislative offices occurred on May 3rd. Further delaying the decision of which state legislative maps will be used in the 2022 election will create confusion and unfairly prejudice candidates who must meet filing deadlines and need to “be sure what district they need to file for” or even determine “which district they live in.”¹⁰ *Milligan*, 142 S. Ct. at 880 (Kavanaugh, J., concurring). Courts nationwide have applied the *Purcell* principle in this redistricting cycle to minimize the confusion and disruption that occur when the voting rules change close to when the election occurs. *See Alpha Phi Alpha Fraternity, Inc., v. Raffensperger*, No. 1:21-cv-05337, 2022 WL 633312 (N.D. Ga. Feb. 28, 2022); *Moore v. Harper*, No. 21A455, 595 U.S. ____ (Kavanaugh, J. concurring). Petitioners’ requested relief—a three-day turn-around time to draw a new plan—is as untenable as it is impractical. Even if the Court were inclined to grant this drastic remedy, that would leave the Commission with insufficient time to pass a new state legislative plan, no time for a Court to properly review the plan, and in any event such a plan could not comply with Ohio’s statutory deadlines for, e.g., candidate petitions. *See supra* pp 7, 11. Elections must proceed, and federal case law is clear: elections will proceed, even if some courts believe an underlying districting plan is unconstitutional. *See Merrill*, 142 S. Ct. at 880 (Kavanaugh, J., concurring in grant of applications for stays of enforcement where lower court found Voting Rights Act violations in Alabama’s Congressional redistricting plan); *Covington v.*

¹⁰ The Ohio Constitution guarantees that candidates will have thirty days to change residence and be eligible for election under any new map. Article XI, Section 9(C) (“Notwithstanding any provision of this constitution or any law regarding the residence of senators and representatives, a general assembly district plan made pursuant to this section shall allow thirty days for persons to change residence in order to be eligible for election.”).

North Carolina, 316 F.R.D. 117, 177 (M.D.N.C. 2016) (refusing to enjoin election 2.5 months away despite entering a final judgment holding certain North Carolina legislative districts were racial gerrymanders because “such a remedy would cause significant and undue disruption to North Carolina’s election process and create considerable confusion, inconvenience, and uncertainty among voters, candidates, and election officials”); *Upham v. Seamon*, 456 U.S. 37, 44 (1982) (holding that even though there was error by the lower court the interim plan should be used because the filing date for candidates had “come and gone” and the primary was looming). Accordingly, the relief sought by Petitioners is not only foreclosed by Ohio and federal election administration law, the changes it seeks to make to Ohio’s electoral process, less than three months before election day and mere weeks before ballots are scheduled to be mailed to voters, are forbidden under *Purcell*.

C. The Bennett Petitioners’ Plan was Properly Rejected by the Commission.

The Commission properly rejected the plan submitted by the Bennett Petitioners to the Commission on May 5, 2022. Contrary to Representative Russo’s pronouncements at the Commission’s meetings, the Bennett Petitioners’ Plan was not the same as the plan on which Drs. Johnson and McDonald worked. (*Compare* May 4 Tr. p 19 at 01:11:19 *with* May 5 Tr. pp 1–2 at 0:01:39–0:01:55). Indeed, even Representative Russo conceded that numerous changes were made by the Bennett Petitioners’ expert to the plan on which Drs. Johnson and McDonald worked prior to her submission of it to the Commission on May 5th. (May 5 Tr. pp 1–2 at 0:01:39–0:01:55). Furthermore, while Representative Russo insisted that the Bennett Petitioners’ Plan was constitutional, because of its late submission to the Commission no other Commission members were able to evaluate that claim. (May 5 Tr. p 3 at 0:08:44). To be sure, the Bennett Petitioners – who have opposed virtually everything the Commission has done since it started work and clearly

have their own agenda to maximize Democrat seats and minimize Republican seats – do not have the Commission’s or Ohio’s best interests in mind. The Constitution delegates the drawing of Ohio’s state legislative districts to the elected officials of the Commission, not third-party litigants and their paid expert witness.

Finally, the Bennett Petitioners’ Map had to be rejected for the same reason that the Commission resubmitted the Third Plan: the orderly administration of the 2022 election requires utilization of the Third Plan. (May 5 Tr. pp 17–18 at 0:24:12). As such, the Court should overrule Petitioners’ objections.

II. Petitioners’ Arguments that the Court Can Impose its Own Maps, in the Face of Specific Constitutional Language to the Contrary, Are Wholly Unavailing.

In a last-ditch effort to circumvent the constitutional limitations of original redistricting matters in the Ohio Supreme Court, Petitioners now argue that the Court can ignore the plain text of Article XI, Section 9(D) of the Ohio Constitution “as a matter of constitutional interpretation[.]” (Bennett Petitioners’ Objections of May 6, 2022 at p 7). This Court should refuse to entertain Petitioners’ baseless constitutional arguments. Petitioners know, and admit as much, that this Court has limited remedies in original apportionment actions. (Bennett Petitioners’ Objections of May 6, 2022 at p 6). This became the law when the People of Ohio passed Article XI, was the law in the beginning of this litigation, and remains the law today. Indeed, a constitutional challenge to Section 9(D) is not properly before this Court. Nevertheless, should this Court choose to entertain Petitioners’ novel constitutional interpretation arguments, Section 9(D) is not in conflict with other provisions of Article XI and therefore is not severable.

A. This Court has already determined that it does not have the power to draw districts under Article XI, Section 9 of the Ohio Constitution.

At every stage of this litigation, Petitioners have attempted to bend the plain text of the Ohio Constitution to extract a remedy that this Court cannot constitutionally give. The Court has consistently rebuffed these arguments, recognizing the constitutional limitations under Article XI, Section 9 in its prior opinions. The Court should continue to adhere to its precedent. *LWV I*, Slip Opinion No. 2022-Ohio-65, ¶¶ 65-75; *LWV II*, Slip Opinion No. 2022-Ohio-342, ¶¶ 66-68; *LWV III*, Slip Opinion No. 2022-Ohio-789, ¶¶ 44-46; *03/21/2022 Case Announcements #2*, 2022-Ohio-899 (denying Respondents Sykes and Russo’s Motion to Move the Primary Election). Most recently, in *LWV IV*, Bennett Petitioners made similar arguments that “the facts have changed and now stand far beyond what Article XI contemplates” to circumvent Section 9(D). *LWV IV*, Slip Opinion No. 2022-Ohio-65, ¶¶ 63-73. (See Bennett Petitioners’ Objections of May 6, 2022 at pp 6-7). The Court flatly rejected Petitioners’ arguments and proposed alterative remedies because the Court “lack[ed] the constitutional authority to grant that relief.” *Id.* at ¶ 64. It should do the same here.

For this Court to reverse its prior holdings now would violate the law of the case doctrine. *See Reid v. Cleveland Police Dep’t*, 151 Ohio St.3d 243, 2017-Ohio-7527, 87 N.E.3d 1231, ¶ 10 (O’Connor, J.) (“This court has long recognized the law-of-the-case doctrine is necessary to ‘ensure consistency of results in a case, to avoid endless litigation by settling the issues...’”). As set forth in previous filings, Respondents re-emphasize that this Court has already decided this issue and there is no need to revisit the Court’s prior rulings. In fact, doing so could violate the due process rights of the other Commission members who have relied upon the Court’s previous holdings to inform their actions. *See Reich v. Collins*, 513 U.S. 106, 111 (1994).

B. Section 9(D) does not conflict with Section 9(A).

“Generally speaking, in construing the Constitution, we apply the same rules of construction that we apply in construing statutes.” *Wilson v. Kasich*, 134 Ohio St. 3d 221, 2012-Ohio-5367, 915 N.E.2d 814, ¶ 13 (quoting *Smith v. Lewis*, 106 Ohio St.3d 309, 2005-Ohio-5125, 835 N.E.2d 5, ¶ 57). First, the Court looks “to the plain language of the statute itself to determine the legislative intent.” *Summerville v. Forest Park*, 128 Ohio St.3d 221, 225, 2010-Ohio-62890, 943 N.E.2d 552, ¶ 18 (quoting *Hubbell v. Xenia*, 115 Ohio St.3d 77, 2007-Ohio-4839, 873 N.E.2d 878, ¶ 11). If a statutory provision is “plain and unambiguous and conveys a clear and definite meaning, then there is no need for th[e] court to resort to the rules of statutory interpretation[.]” *State v. Parker*, 157 Ohio St. 3d 460, 2019-Ohio-3848, 137 N.E.2d 1151, ¶ 21 (citation omitted); *Toledo City Sch. Dist. Bd. of Educ v. State Bd. of Educ. of Ohio*, 146 Ohio St. 3d 356, 2016-Ohio-2806, 56 N.E.3d 950, ¶ 16 (quotation omitted). Only when a statute or constitutional provision is ambiguous, does the Court look to canons of construction and statutory interpretation. *See id.* at ¶ 16 (“If the meaning of a provision cannot be ascertained by its plain language, a court may look to the purpose of the provision to determine its meaning.”).

In interpreting multiple constitutional provisions, this Court reads those provisions *in pari materia*, meaning the Court “attempts to give full application to every part of each of them unless they are irreconcilable and in hopeless conflict.” *Wilson*, 2012-Ohio-5367, at ¶ 32 (citation omitted). If two constitutional provisions are “irreconcilable and in hopeless conflict,” then the more specific constitutional provision on the subject will control. *Id.*

The plain meaning of Sections 9(D) and 9(A) do not conflict. Section 9(A) is a general grant of “Exclusive, original jurisdiction” in the Supreme Court of Ohio for “all cases arising under [Article XI].” Section 9(D) provides limitations on remedies that the Supreme Court may implement in Article XI cases, including the mandates that:

- (1) No court shall order, in any circumstance, the implementation or enforcement of any general assembly district plan that has not been approved by the commission in the manner prescribed by this article[; and]
- (2) No court shall order the commission to adopt a particular general assembly district plan or to draw a particular district.

Ohio Constitution, Article XI, Sections 9(D)(1)–(2). Read *in para materia*, Sections 9(D) and 9(A) provide a limited grant of jurisdiction for the Supreme Court of Ohio to invalidate a general assembly district plan adopted by the Commission. This interpretation has been confirmed by the Court’s previous refusals to enact a separate plan or move the date of the primary election.

Even if the Court determines that Sections 9(D) and 9(A) conflict, the more specific provision on the subject applies. See *State ex re. Maxcy v. Saferin*, 155 Ohio St. 3d 496, 2018-Ohio-4035, 122 N.E.3d 1165, at ¶ 10 (quoting *Akron v. Roth*, 88 Ohio St. 456, 461, 103 N.E. 465 (1913)) (“Special constitutional provisions relating to a subject will control general provisions in which, but for such special provisions, the subject might be regarded as embraced.”). Because Section 9(D) specifically limits the remedies available in Article XI challenges, Section 9(D) would prevail.¹¹

No matter the circumstances, the mandates of Sections 9(D) and 9(A) are clear and must be read *in para materia*, granting the court limited, exclusive jurisdiction to review plans adopted by the Commission.¹² Accordingly, severance of these provisions is inappropriate here.

C. Petitioners’ separation of powers cases are inapposite.

¹¹ The same applies to Petitioners’ passing statement that Section 9(D) “is now in irreconcilable conflict with Article IV, Section I of the Ohio Constitution, which vests the ‘judicial power of the state’ in Ohio courts and Article I, Section 16, which provides that ‘every person . . . shall have remedy by due course of law’ for injuries.” (See Bennett Petitioners’ Objections of May 6, 2022 at pp 6-7). See *Akron v. Roth*, 88 Ohio St. 456, 461, 103 N.E. 465 (1913) (holding the more-specific constitutional provisions in Article XVIII, Sections 8 and 9 of the Ohio Constitution control amendments to city charters, not Article II, Section 1f).

¹² To the extent that Petitioners suggest Section 9(D) is in conflict with other provisions of Article XI, this Court rejected those arguments in *LWW I*. *LWW I*, Slip Opinion No. 2022-Ohio-6, at ¶ 68 (citing *State v. Porterfield*, 106 Ohio St.3d 5, 2005-Ohio-3095, 829 N.E.2d 690, ¶ 12). In fact, the Court read Article XI, Section 8(C) *in para materia* with Section 9(D), and Article XI, Section I *in para materia* with Section 9(B). *Id.*

Petitioners attempt to argue that the separation of powers doctrine allows the court to circumvent Section 9(D) by claiming that the Commission has “defied” the limited grant of jurisdiction in Article XI, Section 9(A).¹³ (See Bennett Petitioners’ Objections of May 6, 2022 at p 8). Petitioners cite several cases in support of this argument. Each case is inapplicable here.

Two of the cases cited by Petitioners involve discretionary statutory schemes where the General Assembly moved powers from the judiciary to another branch of government. (See Bennett Petitioners’ Objections of May 6, 2022 at p 8). In *State v. Bodyke*, the Court found a sexual offender reclassification statutory scheme violated the separation of powers doctrine by vesting the Attorney General with the authority to review judicial classifications and to reopen final judgments. 126 Ohio St.3d 266, 2010-Ohio-2424, 933 N.E.2d 753, ¶ 54. Similarly, in *State ex rel. Bray v. Russell*, the Court found a statute empowering parole boards, not the courts, to adjudicate crimes committed in state prisons violated the separation of powers doctrine. 89 Ohio St.3d 132, 134, 729 N.E.2d 359, 362 (2000) (describing the statute at issue as “no less than the executive branch’s acting as judge, prosecutor, and jury”).

Bodyke and *Russell* are distinguishable from the issue here because the powers under Article XI, Section 9 have not been taken away from the Court. The Court continues to have discretion to invalidate a legislative plan adopted by the Commission. Petitioners’ complaints derive not from separation of powers concerns, but from the Court’s inability to pass their unverified plan of choice due to the express limitations in Section 9(D). See *Russell*, 89 Ohio St.3d

¹³ Ironically, Petitioners’ invocation of the “separation of powers” doctrine is the exact rationale for the limited remedies available in Article XI, Section 9. Apportionment historically has been a legislative function, and the specific structure of Section 9 mandates that the Commission draw the district lines, and specifically forbids the Court from engaging in map drawing. See *Russell*, 89 Ohio St.3d at 134, 729 N.E.2d at 361 (“This court has repeatedly affirmed that the doctrine of separation of powers is ‘implicitly embedded in the entire framework of those sections of the Ohio Constitution that define the substance and scope of powers granted to the three branches of state government.’” (internal quotation omitted)).

at 134, 729 N.E.2d at 361 (“The people adopted the Ohio Constitution, not the legislative, executive, or judicial branches of government.”).

Petitioners also cite to *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 467, 715 N.E.2d 1062 (1999) in support of their separation of powers arguments. (See Bennett Petitioners’ Objections of May 6, 2022 at p 9). In *Sheward*, the Court held reenacted tort reform legislation violated the separation of powers doctrine as the statutory scheme “declar[ed] itself constitutional, [reenacted] legislation struck down as unconstitutional, and [interfered] with this court’s power to regulate court procedure.” *Id.* at 462, 715 N.E.2d at 1076. The *Sheward* Court, however, only declared the challenged legislation unconstitutional—it did not adopt its own tort reform legislation. *See id.* Here, the election administration exigencies require implementation of the Third Plan. If the Court disagrees it should defer a ruling or remedy after the 2022 election.

III. The Court Should Not Require the Commission to Draw Any More State Legislative Maps Until After the 2022 Election.

Petitioners’ argument that the Court should order the Commission back into session on May 10, 2022, to generate a new map by May 13, 2022, is a thinly-veiled attempt to set the Commission up for failure, allowing Petitioners to yet again ask the Court to impose their preferred plans, which would violate the Ohio Constitution. No reasonable observer of the proceedings here could believe that the members of the Commission would have the ability to draw entirely new maps over the course of three days. Indeed, Petitioners propose this remedy because they clearly believe that the only way the Commission could do so would be to adopt the Bennett Petitioners’ Plan. The Court should reject this – it would effectively compel the Commission to approve the Bennett Petitioners’ Plan, which is tantamount to the Court, and not the Commission, drawing the district lines.

Instead, in light of the above-described election administration issues, *see supra* pages 16 to 19, the Court should approve the Third Plan. In the event, however, that the Court does not approve the Third Plan, it should not order the Commission to redraw general assembly districts until after the 2022 election for a number of reasons. First, delaying a redraw would prevent further confusion to voters, in that the Commission and Court would not be considering one set of district maps while the voters are voting under a different set of district maps. Second, it would be consistent with the text of Section 9(B) of Article XI, which does not place a time constraint on the Commission redoing an invalidated plan:

In the event that ... any general assembly district plan made by the Ohio redistricting commission ... is determined to be invalid by an unappealed final order of a court of competent jurisdiction then ... the commission shall be reconstituted as provided in Section 1 of this article, convene, and ascertain and determine a general assembly district plan in conformity with such provisions of this constitution as are then valid ... to be used until the next time for redistricting under this article in conformity with such provisions of this constitution as are then valid.

The Constitution, not the Court, sets forth the timing and procedure for the Commission to come develop a new plan after one has been invalidated by a court. Finally, redrawing a new plan after the 2022 General Election would allow the People of Ohio input, via the ballot box, as to who the Commissioners will be that will draw the post-2022 state legislative district maps.

CONCLUSION

For the reasons stated above, Petitioners' Objections to the resubmitted Third Plan should be denied, and the Court should allow elections to go forward under the Third Plan. Alternatively, the Court should defer ruling on the resubmitted Third Plan until after the 2022 election, or delay any additional redraws until after the 2022 election.

Respectfully submitted this the 9th day of May, 2022

/s/ Phillip J. Strach

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Exhibit A

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Ohio Redistricting Commission - 5-4-2022

<http://ohiochannel.org/video/ohio-redistricting-commission-5-4-2022>

Speaker Bob Cupp [00:00:00] A meeting of the Ohio Redistricting Commission will now come to order. I would note before we get into the roll call that we have some letters of appointment in your file and I'll just make note of them for the record. One from Senator Huffman, President of the Senate, appointing Senator Robert McColley in lieu of the Senate president's service on the commission. We have a second one from myself as speaker of the House, appointing Representative Jeff LaRe in lieu of my service on the commission. We have then a two letters, one from the President of the Senate and one from the speaker of the House, designating Jeff LaRe as the one of the co-chairs of the commission. So at this point, I would call upon the governor to administer the oath.

Gov. Mike DeWine [00:01:09] Please raise your right hand. Repeat after me. I , state your name.

Sen. Rob McColley [00:01:13] I, Rob McColley.

Rep. Jeff LaRe [00:01:13] I, Jeff LaRe.

Gov. Mike DeWine [00:01:13] Do solemnly swear.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:14] Do solemnly swear.

Gov. Mike DeWine [00:01:14] To support the Constitution of the United States.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:18] To support the Constitution of the United States.

Gov. Mike DeWine [00:01:22] The Constitution of the State of Ohio.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:23] The Constitution of the State of Ohio.

Gov. Mike DeWine [00:01:24] And to faithfully discharge the duties of the office.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:26] And faithfully discharge the duties of the office.

Gov. Mike DeWine [00:01:29] As a member of the Ohio Redistricting Commission.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:30] As a member of the Ohio Redistricting Commission.

Gov. Mike DeWine [00:01:31] On which I serve.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:32] On which I serve.

Gov. Mike DeWine [00:01:35] Pursuant to Article 11.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:39] Pursuant to Article 11.

Gov. Mike DeWine [00:01:39] Section 1 of the Ohio Constitution.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:39] Section 1 of the Ohio Constitution.

Gov. Mike DeWine [00:01:39] This I shall do as I shall answer unto God.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:39] This I shall do as I shall answer unto God.

Gov. Mike DeWine [00:01:50] Congratulations.

Speaker Bob Cupp [00:01:50] Having been duly appointed and sworn in, I would now ask Representative LaRe, co-chair, to continue with presiding over the meeting today.
Co-Chair.

Co-Chair Rep. Jeff LaRe [00:02:35] Will the staff please call the roll.

Speaker 6 [00:02:38] Co-Chair, LaRe.

Co-Chair Rep. Jeff LaRe [00:02:40] Here.

Staff [00:02:41] Co-Chair Sykes.

Co-Chair Sen. Vernon Sykes [00:02:43] Here.

Staff [00:02:44] Governor DeWine.

Gov. Mike DeWine [00:02:46] Here.

Staff [00:02:46] Auditor Faber.

Auditor Keith Faber [00:02:46] Present.

Staff [00:02:46] Secretary LaRose.

Secretary of State Frank LaRose [00:02:48] Here.

Staff [00:02:48] Senator McColley.

Sen. Rob McColley [00:02:51] Here.

Staff [00:02:51] Leader Russo.

House Minority Leader Allison Russo [00:02:51] Here.

Co-Chair Rep. Jeff LaRe [00:02:55] With a quorum present will meet as a full committee. Members can find the minutes from the last meeting on March 28th in their folders. Do I have a motion to accept the minutes?

Co-Chair Sen. Vernon Sykes [00:03:04] So moved.

Co-Chair Rep. Jeff LaRe [00:03:06] Are there any objection or amendments to the minutes? Hearing none. The minutes are accepted. At this time, we'll move the discussion

to the allocation of funds to further work, for the further work of the Commission.
Representative Russo.

House Minority Leader Allison Russo [00:03:24] Thank you. Thank you. Co-Chair. Welcome to this illustrious committee. We are glad to have you here. I make a motion to adopt a resolution asking the legislative task force to approve the funds requested by the Democratic commissioners, specifically the allocation of funds that I have requested specifically. Specifically, I move that the Commission or I urge or specifically request of the Commission urge the Legislative Task Force on redistricting, of which I am co-chair, to approve funding for the caucuses so that the Democratic members of the Commission have the resources and professional expertise needed to perform their constitutional duties. As a reminder, we rely on a consultant to be able to help us with the mapmaking process. We also have a licensure software licensure as well as the licensure or the software support that need to be renewed. The last allocation of which we have not spent all of the allocation, but it expired on March 4th. So we do need to at least extend that so that we can continue to have the support that we need to continue with this process. And I would hope that this commission would be supportive of all of our members having the resources necessary to do our constitutional duties.

Co-Chair Sen. Vernon Sykes [00:04:59] I second the motion.

Co-Chair Rep. Jeff LaRe [00:05:03] Representative McColley or Senator McColley.

Sen. Rob McColley [00:05:06] Thank you, Chairman. Those of you who are on the commission probably know that Leader Russo is one of the co-chairs of the Legislative Task Force on Redistricting, and I am the other co-chair. I did receive a letter from Leader Russo regarding her funding request, and I believe all of you have also received a letter that was drafted by Speaker Cupp subsequent to that request, and I sent a letter back to her that I believe you also have all received as well, detailing some concerns that we have with some of the spending out of the allocations that have been made to the Democratic Caucus. And I really am just looking for an explanation, primarily just in our effort to exercise due diligence and transparency with some of these expenditures. And so primarily just from following this process, I think anybody would understand that Mr. Glassburn has been the Democrat map maker since the beginning of this process, or at least the primary Democrat map maker. And in reviewing some of the expenditures, it has an interesting pattern of payments being made that from first glance can't really be explained very well. It appears there were payments made September through December of what appears to be his his normal monthly retainer, his normal monthly fee of anywhere from \$13,000 to \$16,000. And then there were two payments in the month of February, and then a month later, in the month of March, that totaled \$58,500 and \$55,000. And the March payment was actually accompanied by a payment that seemed to be customary with what the monthly fees would appear to be, that being \$14,000 for a total of \$182,500 being spent. The Speaker had mentioned that in our duty to to exercise discretion over these funds, that it may not be a bad idea to to inquire as to the irregularity of those two payments that seem out of the ordinary course of business, and then to inquire as well about additional payments that were made totaling \$119,000 from August 20, August 20th, two payments made on October 20th and a payment made on December 2nd to Haystack DNA, which is a company out of Washington, D.C., that, best I can tell, focuses primarily on data analysis for political issue messaging, messaging and fundraising, and has had some involvement with redistricting efforts across the state, those payments totaling \$119,000. And so trying to get a little bit of an explanation what those what those funding numbers were, what that money went for, don't really have an issue with the monthly, what

appears to be the monthly payments to Mr. Glassburn. But primarily it's those two payments that seem to be out of the ordinary that I'm a little bit curious about.

Co-Chair Rep. Jeff LaRe [00:08:21] Representative Russo.

House Minority Leader Allison Russo [00:08:22] Thank you, co-chair. Thank you, Senator. Happy to answer some of those questions. So first, just to level set everyone, the Democratic caucus, we have been allocated a total of \$500,000 since this process began, of which we have spent \$354,000. Again, you know, we had originally requested that that allocation expire later than the date that I believe was changed by Senator McColley's office in some of our back and forth. And it was changed to expire on March 4th. So in total, the money that we originally allocated and approved has not been spent. In fact, we've got about \$145,000 left. I will also remind folks that the Democratic caucus and the money that we are spending to support our work on this commission goes through the task force. Unlike some of our other colleagues on the commission, where some of the consulting fees, for example, for outside mapmakers actually comes through some of the legal expenses. And that, of course, we can't get into detail. And I think there's been about \$600,000 of ours spent there, but we haven't been able to get details about how that has broken out. Also, as a reminder, we do not, at least for the House Democratic Caucus because of we have limited staff and limited payment to our staff. We are not able to reassign staff to this task and compensate them accordingly. So we have to go to these outside consultants. But specifically, your questions about Mr. Glassburn. As a reminder, Mr. Glassburn, at the beginning of this process, was only in contract with the Senate Democrats, not with the Senate House, the Senate or sorry, the House Democrats, the House Democrats. Originally, we had a consulting contract with Haystack. They were the mapmaker. This is before I came on the commission. Their work stopped, I believe, in December. So we did not have any other relationship with them, contract relationship with them after December. And that was before my time coming on the task force beginning in January when I transitioned onto the task force. We also thought that it was more efficient to have Mr. Glassburn working for both of the caucuses, and as a result, his contract amount was higher to reflect that. So the amounts that you see in February and March, and by the way, he had a contract amount that was approved, a total contract amount that was approved by the task force and the invoicing goes through LSC, which both the Senate president and the speaker chair that and go back and forth chairing that. So he submitted those invoices as he was legally required to do. There were no questions raised about the invoices, and they were paid. In the months of February and March. The invoices submitted, I will remind you, not only was he working for two caucuses at the time and two commissioners, but we had three court decisions that came about during that time period. So we were working on both two sets of state legislative maps, as well as an additional set of a congressional map, which is very different certainly than some of the previous months when he was consulting. So he simply invoiced. Again, his contract was a set amount that we gave to him and it was just simply a matter of how he broke up the invoicing that he did for those two months. But I will remind you, he was also doing not only working for two different commissioners, but also working during three different decisions as opposed to in the fall. That was only one decision or actually that was pretty decision about two different maps.

Co-Chair Rep. Jeff LaRe [00:12:24] Senator McColley.

Sen. Rob McColley [00:12:26] Thank you, Chairman. Thank you for the explanation, Leader Russo. To be clear for everybody, the individual invoices are not necessarily approved by the co-chairs of the task force. Generally, there's a lump sum that's been

allocated to the to each of the individual caucuses, and then it's within their discretion to approve the invoices individually. So these invoices would have been approved to have been paid by the Democrat co-chair of the task force. And I guess I understand, I guess, some of the reasoning behind that. However, it still doesn't, I guess, justify the the enormous departure from what would have been the ordinary and customary order of business with Mr. Glassburn to go from 16,000 in September, 13,000 for October, presumably 13,000 for November, 13,000 for December. And then all of a sudden, February and March, \$58,500 and \$55,000, then to return back to 14,000, despite the fact that, as you had said, he was working for two caucuses now. And I guess that's that was part of the reason why I requested in my return letter to you that there be an accounting of whatever costs were presented to justify that large departure in the order that would have, I think, raised many anybody's eyebrows if they were being objective when they looked at the pattern of payments.

House Minority Leader Allison Russo [00:14:07] Sure. So, you know, again, this is what mapmakers cost. And, you know, I appreciate us wanting to be good stewards of the taxpayer dollars, but this invoice, as required coming through the legislative task force, redistricting task force was submitted number one, the contract was approved. It was submitted through LSC. If there were any concerns about the contract, they can raise that. We allocated the dollars. You know, if I would love to have a full accounting, frankly, of what the Republican commissioners have spent on mapmakers, because we can't see those dollars. [applause] They come through.

Co-Chair Rep. Jeff LaRe [00:14:52] Let's maintain decorum, please.

House Minority Leader Allison Russo [00:14:54] Those come through legal fees that we don't have a detailed accounting of. So if you know, we're going to go back and forth again, if this is part of us not having the resources to be able to complete our constitutional duty, and this is going to be, you know, the games that we're going to play with us, then I would ask that we have the same level of scrutiny and detail of what has been spent on outside consulting mapmakers from other commissioners. Again, you know, there has been nothing raised about the contract. Mr. Glassburn was working for two commissioners under three decisions during this time period. Everyone who was up here, including staff, knows that there was an enormous amount of time and hours spent, particularly during the month of February, end of January, February and beginning of March. Given the number of decisions and the number of rounds of mapmaking that we were undergoing during that time.

Co-Chair Rep. Jeff LaRe [00:15:58] Senator McColley.

Sen. Rob McColley [00:16:00] I guess to start there, all of our mapmakers are employees of our caucus, so there was no additional money spent on them. So it's still, in my mind, doesn't get to the crux of the issue. The fact remains that. Looking at these payments, it's easy to see that his ordinary monthly retainer or fee, if you will, is anywhere from \$13,000 to \$16,000. And all of a sudden, in February, that quadrupled and then remained high for the for the first payment of the month of March. And then he was given another payment during the month of March of \$14,000. And so I realize there may have been a lot of work, and I'm not disputing that Mr. Glassburn has put an awful lot of hours into into this process. And, in fact, I don't have any dispute with his normal monthly retainer or fees or however the contract is structured. I've never seen the contract. And so the question remains, what is the justification for \$58,500, which is more than each of the previous four payments made to him combined that was paid to him in the month of February and then an

additional payment of \$55,000 one month later. So in the course of two months, just during February and March, there were payments made to him of \$127,000. You count both March payments.

House Minority Leader Allison Russo [00:17:33] So.

Co-Chair Rep. Jeff LaRe [00:17:34] Leader Russo.

House Minority Leader Allison Russo [00:17:35] Yes. Thank you, Senator. As a reminder, these are not monthly expenses. He has a set contract amount and the allocation was set to expire on March 4th. So it's not as if he could continue to do the \$13,000 every month if he was going to submit the invoice for the work. Essentially, he had to do it from January to March 4th because that's when the allocation expired. I also want to go back and just correct that you only use staff mapmakers. We know through public records request that in fact, Mr. Clark Benson, who's a DC mapping consultant, was paid through outside counsel. Nelson Mullins, We know that John Morgan, who is also a DC mapping consultant, was paid through outside counsel. Now Nelson Mullins. So this assertion that only Democrats on this commission are using outside mapmakers is just frankly incorrect. Also, I will say that again, the staff and the the Republican commissioners staff mapmaking staff who have been assigned to work on this were also given significant raises prior to this process totaling \$80,000. That same payment adjustment was not afforded to my staff. And so, you know, at the end of the day, frankly, looking at Mr. Glassburns, billings, that seems like a deal to me. And that is, you know, especially when we consider the \$9 million that's already been allocated for a primary that was conducted yesterday, that was confusing. And the \$25 million on top of that to conduct a second primary because this commission has not done its job. So if we want to start talking about-- [applause]

Co-Chair Rep. Jeff LaRe [00:19:18] Folks, please. Maintain decorum.

House Minority Leader Allison Russo [00:19:20] prudent use of taxpayer dollars, I think we're focusing on the wrong thing.

Co-Chair Rep. Jeff LaRe [00:19:33] Senator McColley.

Sen. Rob McColley [00:19:34] Thank you. Well, it's it's to me, I think we're, it's right for us to focus on this. And I think you admitted that even even earlier when we appreciate the the oversight we were trying to exercise over this, I just don't see and I've not heard in your explanation why something would quadruple and then stay quadrupled for yet another month. And keep in mind another thing. You keep bringing up these outside consultants. None of them participated in the map drawing process. Those people were were hired, I believe, by our lawyers. Right. Potentially to aid them. And in the litigation, they were not participating in map drawing at any point in time. And I think the record also proves that to be clear.

Co-Chair Rep. Jeff LaRe [00:20:23] Representative Russo.

Co-Chair Rep. Jeff LaRe [00:20:24] I believe those attorneys were advising members of this commission outside of the litigation, throughout the mapmaking process. Again, you know, you say I'm not explaining the invoiced amounts. I did explain the invoicing amounts. He was under contract to provide these services from January to March 4th and he simply invoiced over that time period his total contract amount totaling \$127,000 and

\$127,500. Again, these are not monthly fees. He had a set contract amount that was approved, approved by LSC, approved by us, and he simply invoiced over the period of time before the allocation expired, which was on March 4th. We had actually originally requested that it expire in mid-April, and I believe your office changed the date on that. So that is why we've got the the invoicing amounts over that compressed period of time. He just had a shorter period of time to submit invoices, but also his work was entirely justified. He was here doing the work and advising two different commissioners and working through three different decisions at the time.

Co-Chair Rep. Jeff LaRe [00:21:39] Senator McColley.

Sen. Rob McColley [00:21:40] Mr. Chairman, thank you. Um, haystack DNA. And I think I might know the answer to this, but can you, can you explain a little bit what their involvement was and the four payments made to them from August to December of last year totaling \$119,000?

House Minority Leader Allison Russo [00:21:59] Sure. So, Haystack. Again, this preceded my time on this commission. They were contracted with the House Democrats specifically and as mapmaking consultants and to develop maps for us to do the work here on the commission. And they had a set contract amount as well and invoiced over the period of time that they were under contract with us. That contract had ended before I came on this commission and before I was on the task force. But the decision was made and I will take full responsibility for this. At the beginning of January, when I assumed the position on this commission that I thought that their services were no longer needed by our caucus, and it was more efficient to have Mr. Glassburn.

Co-Chair Rep. Jeff LaRe [00:22:50] Senator McCauley.

Sen. Rob McColley [00:22:52] Did did haystack DNA ever actually develop any maps that were presented to the commission or or otherwise?

House Minority Leader Allison Russo [00:23:00] My understanding is that they developed draft maps for us to consider and for commission. My predecessor to consider to present to this commission is my understanding.

Co-Chair Rep. Jeff LaRe [00:23:17] Mr. Chairman.

House Minority Leader Allison Russo [00:23:18] Senator McColley.

Co-Chair Rep. Jeff LaRe [00:23:18] Did. Well, what was the reason you decided to eliminate their contract?

House Minority Leader Allison Russo [00:23:27] Well, first of all, I'm not being deposed, but primarily purpose, frankly, my decisions, Mr. Glassburn, I think as a as a much better consultant and had more knowledge about the maps. And I thought it was more efficient.

House Minority Leader Allison Russo [00:23:42] Senator McColley.

Co-Chair Rep. Jeff LaRe [00:23:43] Okay. I was just curious because. Thank you, Mr. Chairman. I was just curious because it's it's my understanding that Mr. Glassburn held the same opinion you did, given that in his in his deposition, he said Haystack had very limited value towards any of the final products that were fairness to the commission. So, I mean,

I'd open it up to discussion. I also pointed out in this the response letter to Leader Russo that I think before we allocated more money and before we we went down that path, that I wished that the Commission would express its wishes regarding its next steps and what we should be doing. And in the in the in the funding allocations, given that this is solely within the Commission at this point, and I would like to be deferential to what's going to happen in that regard.

House Minority Leader Allison Russo [00:24:38] Further discussion. Just for clarification on your motion, are you? Asking the task force for a reduced amount from the 200,000?

House Minority Leader Allison Russo [00:24:53] Certainly that is up to up to discussion commission. I would just like this commission, the support of this commission for us to have allocation of funds to our caucus so that we can conduct our work as commissioners and perform our constitutional duties, which is to produce a map that is constitutionally compliant and meets the requirements of the court order that we are currently under. That I will remind everyone on this commission has a deadline of Friday at 9:00, and here we are, less than 48 hours before arguing over this when this should have been done two or two weeks ago.

Co-Chair Rep. Jeff LaRe [00:25:38] Any further discussion? All right. Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:25:54] Mr. Co-Chair, ladies and gentlemen, an explanation was asked for, and I think Leader Russo has provided a detailed explanation historically and budgetary wise. And the question still remains before us making sure that we allocate resources so that we all can participate in map drawing process. And I would hope that you would all consider that.

Co-Chair Rep. Jeff LaRe [00:26:27] Thank you, Senator. Just for clarification for the record. Representative Russo, would you mind repeating your motion?

House Minority Leader Allison Russo [00:26:34] Yes. Thank you, Mr. Co-Chair. So I move that the commission passed a resolution urging the legislative task force on redistricting to approve funding for the caucuses so that Democratic members of the Commission have the resources and professional expertise needed to perform their constitutional duties.

Co-Chair Rep. Jeff LaRe [00:26:52] Senator McColley.

House Minority Leader Allison Russo [00:26:53] Um, just somewhat of a point of order. I don't know that a resolution is necessary given that the decision is up to Leader Russo and I being that we're both here. If the commission generally indicates that they're in favor of authorizing this for the continued expenditures, we can execute this today. So that's, I think, mainly what we're asking for. I don't know that we need an official vote. And so if there's no objection, we can we can do that.

House Minority Leader Allison Russo [00:27:25] Mr. Co-chair.

Co-Chair Rep. Jeff LaRe [00:27:27] Representative Russo.

House Minority Leader Allison Russo [00:27:27] So maybe if I'm hearing the senator correctly that you were expressing approval for the allocation, and we can expect that to come in short order.

Sen. Rob McColley [00:27:43] Yes. I mean, mainly in the letter. I wasn't expecting it. Sorry, Mr. Chairman. In the letter I wasn't expecting to have to bring it before the commission and talk about all of this. I was asking for some of these receipts in accounting in the letter I sent to you. But here we are having this conversation nonetheless. And so if the commission feels it appropriate, then we will we will sign that letter today. That's what I'm saying.

Co-Chair Rep. Jeff LaRe [00:28:13] Representative Russo.

House Minority Leader Allison Russo [00:28:14] Yes, just to clarify, I don't know if we need a vote, but for the commission on this resolution, I'm happy and I'm happy to withdraw the motion. But I also don't hear objections from any other members of the commission.

Co-Chair Rep. Jeff LaRe [00:28:32] Please.

Sen. Rob McColley [00:28:33] Mr. Chairman, I would say at some point in the future, we should be and I am find opening up the Republican caucus books. I mean, frankly, all of this is a public record at this point anyway. And so I am find opening up the the Republican caucus books, there's nothing in there that I, I think would be any surprise to anybody. And so what I would like to see, regardless of whether we approve this today, is still documentations and contracts and and things of that nature in the actual invoices. And maybe I can get that from LSC as to how this was actually structured because while while we were going to approve this, the payments still to me without reviewing that contract still seem highly irregular. And so, I mean, it could be something that we look into further down the road regardless of whether we allocate this future payment.

Co-Chair Rep. Jeff LaRe [00:29:31] Hearing no objection. Do you want to withdraw your motion?

House Minority Leader Allison Russo [00:29:36] Thank you, Mr. Co-chair. If there is no objection and we can expect the approval today in short order, then yes, I'm fine to withdraw this motion.

House Minority Leader Allison Russo [00:29:59] Okay. So at this time, we'll move the discussion. Regarding independent mapmaker drawers. Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:30:09] Thank you, Mr. Chairman. I would move that the commission engage the independent map draws to perform a review of their previous work product, making necessary changes to and entertaining suggested amendments by the commissioners.

Co-Chair Rep. Jeff LaRe [00:30:27] Discussion.

House Minority Leader Allison Russo [00:30:30] Second.

Co-Chair Rep. Jeff LaRe [00:30:31] Senator McColley.

Sen. Rob McColley [00:30:33] If I might make.

Co-Chair Rep. Jeff LaRe [00:30:35] Well, don't know yet.

Co-Chair Sen. Vernon Sykes [00:30:38] Thank you. The co-chair of this commission and the people of the state have really invested a lot of work in and funds in the work product of the independent map drawers. In our last meeting, we were very close to having it conclude and being resolved to a position to be more productive for the for the Commission. And I'm hopeful that we can keep that investment and move forward from the from the actions and the map drawing that's already taken place by the independent map drawers. Thank you.

Co-Chair Rep. Jeff LaRe [00:31:22] Senator McColley.

Sen. Rob McColley [00:31:25] Thank you, Mr. Co-Chair. Having observed this this process, and I'm sure like many of the people in the room watching way more of the livestream than than I probably should have and way more live stream than my wife preferred that I would have watched. Several things became apparent to me. Number one is that while Drs. Johnson and McDonald put in a lot of hours and a good effort, one thing that became apparent to me is that we have people already at our disposal who are eminently qualified to conduct the business of the commission and to draw the maps of the Commission as the Commission sees fit while still being in compliance with the Supreme Court order. Let's not forget, in the most recent Supreme Court order, it reiterated the fact that it was a suggestion, not a requirement, and even stated that specifically that it could not require us to engage independent mapmakers. I personally, with as much scrutiny as he may have been under throughout this process or any of these mapmakers may have been under throughout this process, I think they are the most qualified in the entire country to be drawing these maps. And so I would oppose a motion to engage the independent mapmakers again going forward.

Co-Chair Rep. Jeff LaRe [00:32:56] Further discussion. Governor DeWine.

Gov. Mike DeWine [00:33:00] Chairman. Thank you. To try to put this in proper context. I think it would be good to hear from the Secretary of State in regard to the practical realities that we are facing. We all have seen his letter, but I would like for him to explain what's doable and what is not doable from his perspective because. The practicality of this is very important. I think before making any decision about independent mapmakers or anything else, I think we have to understand exactly where where we are at this point. So if the chair would be willing to do that and if the secretary would be willing to do that, I think this would be an appropriate, appropriate time.

Co-Chair Rep. Jeff LaRe [00:33:52] Secretary.

Secretary of State Frank LaRose [00:33:53] Yeah, happy to. And thanks. Co-Chair Thanks, Governor. I mean, the fact is, yesterday, Ohio's elections officials were able to accomplish something that's nothing short of miraculous. And it's because of the grit and the patriotism and the determination of these bipartisan teams that all of our boards of elections that they did this. Yesterday's election was a successful election. Certainly from the public standpoint, in most parts of the state, it ran smoothly, but there were some real challenges and they were able to overcome those challenges again, because we build redundancies in that we look for any time, there's a single point of failure and then we put backup plans in place. Unfortunately, we had to implement those backup plans in several counties defaulting to paper poll books instead of electronic poll books and all kinds of other things that again, the general public didn't really see much. But that happened because we required them to do 100 days worth of work in 45 days. That resulted in

rushed logic and accuracy testing, which led to technological failures. It resulted in rushed election night reporting preparation, which caused delays. And if we look sleepy, anybody that was involved in the election was working until about 3:00 in the morning over at the secretary of state's office and at 88 County Board of Elections because of those delays related to election night reporting. And also as a result, many of you may have noticed that we were not able to report the congressional results on a statewide basis. Those had to be done on a county by county basis. Those rushes that we had to conduct over the last few months also also resulted in trouble with ballot printing led to the need to remake some ballots. There were misprints with little timing marks and things like that that go wrong when the timing when the time is not allowed for all the testing. One of the other challenges that we have faced and will continue to face is just staff burnout. And this is not something that can just be swept aside or overlooked. I we but I, as the chief elections officer, have asked a lot of our elections officials. They are, as we speak, working on the next three and a half, four weeks to conclude that may election. The work of running an election certainly doesn't end on Election Day. They'll be working through the end of May to conclude yesterday's election. And we're having people that are saying, you know what, I don't know if I want to do this work and considering resigning. And that means that we have a loss of institutional knowledge and that kind of thing. PEO recruitment, recruiting poll workers has become challenging, although we had adequate numbers yesterday and we will have adequate numbers for an August 2nd election. But but that takes a lot as well. So, Governor, if I if I may, I'd like to go through the actual timeline that we're talking about and why. My office told the federal court that April 20th was the date that we needed finality. That was not arbitrary. For that matter, the August 2nd date, which is the really the only logical date to conduct a second primary, that is not arbitrary either. It's important to note that today is 90 days until August 2nd. Ohio's elections are normally administered on a 90 day calendar. Again, that's not by chance that that August 2nd date happens to be 90 days after today. 90 days is what it takes to prepare for and run an election in regular order to avoid some of the errors and challenges that we faced yesterday. So 90 days from today is August 2nd. The boards of elections need two weeks prior to that to program their systems with new maps. If there were to have been a new map by April 20th, they could have had it programed today so that they can begin the preparation for August 2nd while simultaneously still wrapping up the May election, which happened yesterday, backtracking from August 2nd to 90 days. It brings us to today and then two weeks back brings us to April 20th. That's why we set that date as of today. Of course, as I said, the boards are still working to conduct the May 3rd election. We have another 20 days for overseas military ballots to arrive. We have another ten days for for normal, normal absentee ballots to continue arriving. And then the official canvass and the post-election audit all still needs to be conducted over the next four weeks. So that's looking back. Looking forward, according to our 90 day election calendar, we would need to begin validating candidate if there was a new map passed, we would need to begin validating candidate petitions on May 16th. The law requires 78 days before a primary election, so that would have to happen on May 16th, of course, unless the Legislature were to pass emergency legislation to change that. Protest to those petitions would need to be filed by May 20th. That, again, is set in the law at 74 days before an election. We would need to certify the official form of the ballot by May 24th, required to be 70 days before an election. The first ballots for that August 2nd election would need to be in the mail on June 17th, folks. That's five weeks from now, just a little over five weeks from now for those overseas military ballots to start going out on June 17th. So let's say we pass a map tomorrow. Will it be challenged? I think that that's certainly a possibility, given the history of this process and all of the litigation from all of these special interest groups that like to file lawsuits about these things. So if it was challenged, there would be a week of time that the court would allow the challengers to to make their arguments. Then

the court has historically taken three weeks to consider those arguments. Three weeks from now, obviously takes us to within just a week and a half of when we'd actually have to send out overseas military ballots. So let's suppose let's just suppose for a minute that the court didn't strike it down. Let's suppose that we passed a map tomorrow and the court didn't strike it down. The two weeks then would need to be allowed for the boards to program those maps into their systems. And now that's taking us six weeks out from today. That six weeks takes us well past all of those statutory deadlines that are in the law and certainly past the beginning of sending out overseas and military ballots. This is why we said April 20th is not arbitrary. This stuff really matters and it has real results for Ohio voters and Ohio's elections officials. So let's talk about emergency legislation. Any map adopted at this point, any map, even a slight variation of another map, any new map adopted by this commission would certainly require the General Assembly to pass emergency legislation. That means bipartisan votes. That means supermajority votes to pass that emergency legislation. For me, my vote on this commission is both as a member of this commission, but also as Ohio's chief elections officer. I cannot separate those two roles. It would be irresponsible for me, as Ohio's chief elections officer, to even consider a new map unless the legislative leaders and it's unfortunate, but we don't the legislative leaders are now not part of this commission unless they could assure me that they can get that they could get that supermajority vote to pass a piece of legislation to allow us to adjust those timelines. I would need that assurance before I could even consider voting on a new map. I believe that any new map that could be adopted here, you know, must demonstrate that before we can pass any new map, we have to demonstrate that we could get that supermajority vote. So, again, revisiting this candidate filing question with 30 days of residency, that's a9c requirement in the Constitution that would be triggered by any new map as well. That brings up a whole nother set of questions. So again, unless the General Assembly is planning on calling their members into session tomorrow to pass this emergency legislation, I can't see any way that we can pass a new map. Our elections officials pulled off something miraculous last night, but I don't want to ask them to do that again. And so I'm not really willing to compromise the integrity of our elections by rushing through a new map at this point. Our state motto is, With God, all things are possible. So I remain open to conversation about this, but that's certainly where I am on this matter as far as the timing goes.

Co-Chair Rep. Jeff LaRe [00:42:14] Thank you, Secretary. Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:42:17] Thank your chair. Governor DeWine and Secretary LaRose have really expanded the question that I propose. I propose that we continue to use Independent map drawers and they've expanded it to whether or not we should even consider any other map other than map three. And I understand the administrate the election calendar and the administration administrative procedures that need to be adhered to. But if we were so concerned about that time structure, why would we squander the 20 days of 22 days that the court has allotted us?

Co-Chair Rep. Jeff LaRe [00:43:08] Folks. Just out of respect for those listening online, let's let's stop with the clapping.

Co-Chair Sen. Vernon Sykes [00:43:16] So the time crunch is legitimate, but we have the ability to make decisions and we have it's only been the reluctance of the majority to approve the constitutional map that caused us to be in a place of where we are right now today. And all we need to do is to pass the constitutional map. It will be accepted by the court and we can move forward. So I think that we should be engaging. The independent map drawers, back to the original question that's on the floor now.

Co-Chair Rep. Jeff LaRe [00:43:54] Represented Russo.

House Minority Leader Allison Russo [00:43:58] I thank you, co-chair. You know, again, I agree with co-chair Sykes in his assessment of the situation in that we've had 22 days up until this point to avoid where we are now. So this is a problem of our own creation. And I am of the opinion, yes. That we can do things that are hard when there is a will to do it. And the other thing that I would note is that the federal court has given us until May 28, none of these procedures can start until May 28th because the court has given us and the federal court has given us until May 28th. So, you know, frankly, the third map is not set in place, even if you assume that it is so, it is not. So I don't see how we avoid, you know, some of these challenges. Either way, we go with this. But to me, whether people like it or not on this commission, my fellow commissioners, like it or not, we are under a state Supreme Court order to redo these maps. That is the order that we are under. And that is the task before us. And it is unfortunate that we have wasted all of this time getting to this point. And we are now less than 48 hours away from when the deadline is. But again, I believe we can do hard things. So I think that we need to do all that we can to meet those requirements to do right by the voters of Ohio. Because, frankly, any any election conducted on maps that have been thrown out by our state Supreme Court as unconstitutional, that's not a fair election. That's not a legitimate election in my opinion.

Co-Chair Rep. Jeff LaRe [00:45:57] Secretary LaRose do you want to respond to the status of the third map?

Secretary of State Frank LaRose [00:46:02] Yeah, I guess just to say that there's a reason why the three judge panel in their wisdom pointed out that the most reasonable course of action, if there is no other maps passed by the 28th of May, is to use the third map. That map is already programmed at our boards of elections. Back in February, when it was passed, I ordered the boards to begin preparation for the May 3rd election with that map. It is programmed and it's ready to go. The you know, the time period has run since it's been enacted. That would have allowed candidates to move if they if that's what they wish to do. And so, you know, it's really the logical choice that the court made was to say that that third map, if there is no other action by this commission, is the best course forward.

Co-Chair Rep. Jeff LaRe [00:46:54] Representative Russo.

Co-Chair Rep. Jeff LaRe [00:46:55] I thank you, Mr. Co-Chair and Secretary LaRose. My understanding from the testimony that was presented to the Federal Court is that not all boards of elections have actually programmed that third set of map. I think there were eight county boards of elections that had not completed that process. You know, I would say that certainly in our larger counties that have over 50% of the population, if some of those have not started this process or at least have not completed it, it doesn't matter whether we're talking about the third map or another map that this commission completes, it's going to be work that they will have to do, because we've got most of our counties in the state have one legislative district, one Senate district, maybe two, and the bulk of the work will fall on those larger counties. And my understanding is it is many of those larger counties who haven't completed this programming of the maps to begin with. So I don't really see where the the difference in left that has to be done by the county boards of elections is going to be significantly different.

Gov. Mike DeWine [00:48:07] Mr. Chairman.

Co-Chair Rep. Jeff LaRe [00:48:09] Please.

Gov. Mike DeWine [00:48:11] Chairman besides the Supreme court timeline of this Friday, the Ohio Supreme Court timeline. And in addition to that, and also in addition to the problems that have been outlined by the secretary of state. We also have another problem, and at least from my reading of what was going on with the independent mapmakers, I don't think it's simply a question of even if you could, calling them in here, having them come in immediately and think that they can come up with a map that fits the Constitution and also fits the four Ohio Supreme Court decisions. Anybody who watched that in real time and watched what they had to do and I do not blame them at all. I don't blame the court. I don't blame anybody. But the reality is, when they were going through that process, it became abundantly clear you can't hit all those marks. You can't hit all of them. And that is the real problem. The other problem that we we are up against. You know, we start off with the Constitution on proportionality. The court interpreted that in one of their opinions. That's fine. The court added the required of symmetry. That's fine. We accept whatever the court tells us. But those those two were added. But then when you go through when you watched the independent mapmakers go through, you know, they were not able to deal with to get all these things in here and avoid partisan favoritism. Because what we saw them do every single time when they had a choice, they felt based on these other two factors I just mentioned that the court was requiring them to favor the Democrats every single time they had to pick up, they had to pick up those to get those number. I'm not blaming anybody, but that's the way that's the way it turned. It turned out. The other thing that was not part not they were not able to do it was compactness. Compactness. You know, went out, went out the window. You know, they they basically said that they were not able to do the quotas. We had to blow through compactness. They had to blow through compactness to to reach these other things that the Ohio Supreme Court had said. And finally, one of the biggest selling points for the public, I think, for everybody when this constitutional amendment was passed, was that we would have more competitive districts, not fewer competitive districts. And yet the practical reality, again, no one's fault is just the way it worked out. The practical reality, when the independent mapmakers were doing this, they were looking, frankly, not to create more competitive districts, but they had to create fewer competitive districts. So it is we are we have a big, big problem. And, you know, look, I think that we have an obligation. I have said this consistently at every every stage of this, we have an obligation to try to come up with a map. We have an obligation to try to do that. I, I would think that's what we should do. But we have we have a Friday deadline, so we can't get the independent mapmakers. This goes back to the senators motion on the appointing the independent mapmakers. You know, we have people here, both parties who are here who can work on maps. You know, I don't think there's any choice other than to tell them to go work on maps and try to take the third map and try to improve that map because of the problems that are outlined by Secretary LaRose. It's not a good choice. I don't know if we can do it or not. It was look like it was demonstrated the other day that we can't hit all these march. But I think we have a legal obligation, according to what the court has said, to try to hit those marks. I don't think we have any other choice but to go that route, considering what the secretary of state has said. Considering what the Ohio Supreme Court has said on the date. And considering what the practicality is of what we watched in real time when the independent mapmakers were trying to do it. So it's a it's a long explanation. But for Sen. Sykes, I think it does pertain to whether we can get higher independent mapmakers and get them in here in time to do this without any kind of assurance, frankly, that they can do it because they didn't look like they were able to do it through no fault of their own the other day.

Co-Chair Rep. Jeff LaRe [00:53:34] Thank you, Governor. And just for my own clarification, if I understood the Secretary, correct. And even if we were able to get these independent mapmakers in tomorrow, they drafted a map that you still couldn't utilize that unless there was emergency legislative action.

Secretary of State Frank LaRose [00:53:50] Yeah, that's correct. It's worth reiterating, of course, I'm open to trying to do hard things as my friend the leader said. Anybody that knows me knows that I embrace challenges. But certainly we can't just pass a map and then hope that we can get emergency legislation done. I would need assurance from the Speaker and the president, the minority leaders of both chambers that we can get that emergency legislation done because otherwise we'd be passing a map that we couldn't implement. We can't run an election without the emergency legislation. And so I'm not willing to vote for a map and then hope that the legislature can come into session in the next week or two and pass this emergency legislation. We would need either firm assurance or they need to be called into session tomorrow to do that.

Co-Chair Rep. Jeff LaRe [00:54:35] Thank you, sir. Auditor Faber.

Gov. Mike DeWine [00:54:39] Thanks. I want to separate these two issues because I want to get back to what Secretary LaRose just indicated and make sure I understand clearly what that is. But I want to deal with this independent map drawer issue first. I oppose bringing the infinite map drawers back. I'm not sure that that process was overly helpful, in large part because we never had a chance to give independent input as commissioners. The whole understanding and the whole view of the order from the court in my view, was the commission was supposed to draw maps. We never even got a chance to offer amendments. We never got a chance to look at the details of what they were doing in the process because they didn't hit the deadlines. And candidly, I think that the staff that are here could have certainly done that and saved the state an awful lot of money. And while I'm sure they're good guys, they meant well, they expressed over and over how complicated the Ohio rules were and that they had to relearn the Ohio rules to do their job. And we had people in place, both Democrats and Republicans, that had our staff been directed to sit in a room and do it. They could have come up effectively what the independent map drawers did for, frankly, expenses that were already being incurred, some of which we heard about earlier and some of which apparently were incurred by staff staff charges, just like my people who are I don't want to my people tell me not to say that they're map drawers, because they're not, they're staff who have tried to learn these complicated systems and understand the area the best they can. But there are people collectively who can find those answers. And so I think spending more money, of the taxpayers money on these two individuals, even if they're available is unnecessary. And so I would not be supportive of rehiring independent members. Now, if we want to get back to the second after, you want to dispense with the map drawer issue. With regard to the other issue, I think Secretary LaRose raised a very, very important baseline question. If I heard his testimony correctly, it is that we can do nothing at this point that is going to pass a map that is going to be able to be implemented by his staff for a whole host of reasons. And I want to walk through those reasons in a second and ask him to tell me what he thinks would need to be in a emergency piece of legislation. So we know exactly what the targets have to be, if that is doable or not. But what I heard him say very clearly, and he is the expert in this area and I will, of course, be deferential to him in this area. But it will certainly shape my view of what we can and can't do, is that if we can do nothing. Between now and August 2nd. With regard to the map for this next two year cycle, I don't think that ends our obligation to pass a map for some other period of time. I agree with the governor. We have to do what the court told us to do and we don't have a choice. But when we do that, in our ability to think

deliberately and carefully and thoughtfully on, that is a different analysis. But unless I misheard the secretary and I want to make sure I heard him correctly, whether we modified Map three or whether we modified a new map or whether we modified the map drivers map, anything we would pass between now and Friday is impossible. And I'm using that term on purpose, impossible to be implemented for an August 2nd election. No matter what we do. And the reality is, is the only possibility. For any of that to be able to be implemented by August 2nd would require at least two assumables, both of which were not in the power necessarily to assume. One is that the legislature could pass an emergency clause changing the law in some areas. And two, and I think this is an important thing you mentioned, but nobody picked up on was also having certainty that that's actually going to be the map because the court's going to have to review and the petitioners get a chance to challenge any map that we would ultimately pass. And without a certainty that the map is the map. It's tough for you to implement a map on an election basis on August 2nd. Did I hear you correctly, sir?

Secretary of State Frank LaRose [00:58:50] Yes, you absolutely did. The let's start with the May deadlines. The first one coming up is May 16th, which would be to certify the validity and sufficiency of petition candidates.

Auditor Keith Faber [00:59:02] Are these the things that you would need change in emergency legislation?

Secretary of State Frank LaRose [00:59:04] Absolutely.

Auditor Keith Faber [00:59:05] Thank you. I want to make sure I was.

Secretary of State Frank LaRose [00:59:06] Yeah. So, again, if the federal court were to approve, revalidate, whatever the right legal term is the May 3rd map. All of these deadlines would have already elapsed for the, sorry not the May 3rd map. The third map. All of these deadlines would have yet already elapsed for the third map that the federal court has said that they would consider re-validating if if this commission didn't act. So these are new deadlines that would only accrue if there was a new map enacted by this Commission. May 16th, certify validity and sufficiency of candidate petitions. May 20th, this is the deadline for protests against those petitions, which is again, all required by law. May 24th, and this is the big one for our office, the form of the ballot. This is when we lay out for the boards what the ballot looks like so that they can begin doing logic and accuracy testing. Remember back to me giving the list of things that went wrong over the last 48 hours that we were able to work through, but could have been avoided if they hadn't been rushed. The form of the ballot is necessary in order to do logic and accuracy testing and in order to begin the very careful and deliberate printing of those ballots. So that would occur on May 24th. Boards of elections must certify the names of the candidates, also on May 24th. And then there's a protest for write in candidates on May 27th. That's just the ones in May. There's a whole list of deadlines that come up in June. So those are the kinds of things that would have to be considered. We're not even talking about right now the 9C requirement in the Constitution allowing candidates 30 days to move from the date a new map is enacted.

Co-Chair Rep. Jeff LaRe [01:00:56] Representative Russo.

House Minority Leader Allison Russo [01:00:58] Thank you. Again, I'm going to go to the second part of this discussion, which is about these dates, unless I'm understanding or misunderstanding this May 28th, occurs after May 16th, May 20th and May 24th. My

understanding is in every, even with the third map, candidates have not been validated in all counties, nor has the process for questioning that validation. And I'm losing my train of thought here. That has not also not happened with the third map and all of these counties. So I'm still having trouble understanding that even with the third map, given that it has not been ordered yet by a federal court and will not happen until after May 28th. How regardless of whether or not we're talking about a third map or a new map that this commission passes, that we don't still have the same problem that may require or sounds like it will require emergency legislation. So I feel like this is a false choice here because it's the same choice regardless of which path we go with this, because these things, the deadlines will have already passed anyway, because they haven't been done. And the third map would not be ordered. And again, this all assumes the federal court doesn't change its mind until after the 28th.

Co-Chair Rep. Jeff LaRe [01:02:36] Secretary LaRose.

Secretary of State Frank LaRose [01:02:37] Yeah, I'll respond. And this is where I'll be careful not to make legal pronouncements because I'm not a lawyer. But the the act that the Federal Court would be taking punitively is that they would be validating a map that this commission has already enacted. This commission enacted a map. It was struck down by the Ohio Supreme Court. The federal court would be reversing the action of striking down that court. And so in that sense, the timelines have all played out from when this commission enacted that map. And the federal court would be ordering that that map be run on an August 2nd election. Now, of course, those of us in executive office, we don't make the laws. We faithfully carry those out. So what I need to look at with the work that I do. Excuse me. What I need to look at with the work that I do is to make sure that I'm faithfully following Title 35 of the Ohio Revised Code. And the legislature has already enacted a few weeks ago provisions stating that candidates that filed by the February 2nd filing deadline would be grandfathered effectively into the districts as long as the petitions had signatures in the county that includes a part of the new district and all that kind of thing. You remember the language that you all worked on, on that. And so those would be the the petition filing questions have already passed because that was triggered way back on February 2nd when the original statutory petition filing deadline occurred. And so these new deadlines that I was talking about would only be triggered by a new map and a new election to run those new maps.

Co-Chair Rep. Jeff LaRe [01:04:24] Thank you, Secretary. Senator McColley.

Sen. Rob McColley [01:04:27] Thank you, co-chair. I frankly am inclined to defer to the secretary. He knows that these deadlines inside and out. But as far as the discussion on whether there would be votes for an emergency, you know, I I hope I'm not stepping too far out of line here. But based upon previous conversations that we've had in our own caucus and conversations I've had with other members of our caucus, I don't think there would be votes for an emergency at this time in this process. And so, you know, whether whether people like that or not, that's what it takes under the Ohio Constitution to be able to change law without the 90 day layover. And I don't think there would be votes in the Senate at least to get the 22 requisite votes to make an emergency piece of legislation. As as we go a little bit further down that road, and again, for probably the fourth or fifth person trying to recenter this back to the topic of the independent mapmakers. I would I would agree wholeheartedly with everything the governor said as to the difficulties that these independent mapmakers confronted when they were in there drawing maps and it was through no fault of their own, they were thrown into a situation where, while they may, may be relative experts compared across the country, they were thrown into a situation where

there had been continuing hundreds of pages of guidance provided by the Supreme Court in a short amount of time and a complex set of constitutional requirements that I believe they even mentioned might be the most complex in the entire country and then told to try and figure this out, which reiterates the point that I was saying earlier. We have mapmakers on staff Ray DeRossi and Chris Glassburn, who are people who have deep familiarity with Ohio, with its political geography, and where some of these some of these traps may come into place when they're trying to come up with these maps. But I would also say that in regards to the independent map, some of these difficulties were highlighted even with the what I feel is the narrow lane. And insofar as how this map needs to be drawn that the commission has been put into as a result of the jurisprudence from the Supreme Court. Some quotes that I noticed while watching it was Dr. Johnson saying, "I never worked this hard for a commission making districts noncompetitive." Dr. McDonald saying probably most of the way through his house map, the first iteration, saying he hasn't even considered compactness yet. One of the map makers saying, "no reason I can't split the community just because no one's done it, I'm allowed to." That was Dr. McDonald another saying, "if we meet the partisan balance goals, is population balance that important?" District another quote, "district by district, we are really drawing heavily for partisanship relative to the other requirements of the Constitution." Another quote from Dr. Johnson. "Parma and North Royalton are a perfect district together, but it's a Republican district," referencing why he could end up drawing this district. Quotes go on and on and on. Dr. McDonald asking Dr. Johnson what he's working on, getting rid of a competitive district, Dr. Johnson says. Dr. McDonald saying, "I could improve the performance of this district. I could get it to over 52%, making it more partisan." And this one as well. Dr. McDonald later on the Saturday saying, "if we're not worried about compactness, we'll get the seats and make them as symmetric as we can." The whole point in all of this is I feel there's been such and this is even from an outsider's view, who has not been involved in the actual commission process until now. There's been such an emphasis placed on the proportionality and the symmetry requirements that are that are being placed on us largely through the courts interpretation, rather than what I would see as the plain meaning of the Constitution that we have in some cases disregarded or at least subordinated many other provisions of the Constitution at that expense. And so you kind of look at look at the independent mapmakers map, even. When they finished, there were 16 constitutional violations that we could see. And when we're talking about compactness and the whole reason behind when this was passed, I would say everybody in this room, if they were being objective, would say part of the reason we passed this constitutional amendment was to eliminate unnecessary splitting of governmental units, eliminate unnecessary splitting of cities and counties, etc. But here we are even looking at the independent mapmakers map because they were so focused on maximizing the number of Democrat districts within the other bright line rules that may have been contained in Article 11, that you have the City of Dayton, for example, which is approximately 140,000 people could fit in one and part of a second House district was in four different House districts and two different Senate districts. The city of Toledo, approximately 270,000 people, which would fit in two House districts and part of a third was in four House districts and two Senate districts that would have fit entirely within one Senate district. Obviously, the city of Dayton would as well. Akron, which would have fit inside one Senate district and two House districts, was in four House districts and two Senate districts. The city of Cincinnati, which would have fit inside one Senate district and three House districts, was inside six House districts and three Senate districts. I know that people's towns may have changed over the course of time, but when this thing was passed, this was one of the biggest selling points for why we should pass it. Was the unnecessary splitting of some of these communities. And here we are trying to force these types of splits into a map because we put the partisan symmetry question and the proportionality question on such a pedestal over

everything else. And so I think, in my personal opinion, the best way to remedy this and get back to the basics at the very least is to reengage the caucus map drawers, because they're going to be the ones who have, in some cases, decades of familiarity with the state of Ohio.

Co-Chair Rep. Jeff LaRe [01:11:17] Representative Russo.

House Minority Leader Allison Russo [01:11:19] Thank you. Mr. Co-chair, there's a lot to respond to here. First, let me just be very clear. The independent mapmakers did finish a map and there was testimony in front of the federal court that the review, the work that needs to be done, the technical corrections would take less than a day to finish that. So let me be very clear. Also, let me be very clear that the splits that were just mentioned by Senator McColley, they exist in Map three. And in fact the independent mapmakers map, the compactness score and there was undisputed testimony about this actually has a better compactness score than map three. So I just want to, you know, make sure that we're being very honest about these maps. The other thing, just getting back again to the secretary of state and some of the dates that he has outlined. Again, statutorily, we still have deadlines May 16th, May 20th, May 24th. We have not done that work yet, even with the third map that still has to be done. The third map would not be put in place until the 28th at the earliest. And again, that's assuming that a federal court doesn't change its mind, which it could do, and they have been known to do in the past. But even if you assume that they won't, these statutory deadlines will still be an issue, even with that map. The other thing that I would like to note as well about map three is, if you will recall the 30 day -- Well, first of all, the changes that we did for the filing in the legislative adjustment, all of that was tied to a May 3rd primary date. Unfortunately, it was not tied to a primary. It was tied to the May 3rd primary date. So there may be some issues with that as well legally. But I will also remind you that after February 24th, the 30 day constitutional guarantee actually had not fully expired yet before that map was thrown out. So there's still this lingering question of if candidates, even with map three, have been granted their full ability to move into a new district because that 30 day window had not yet expired when the third map was thrown out, I believe it was three days before. And I believe that you and your staff specifically said that it was moot at that point, that 30 day window, because the map had been thrown out or the expiration of that 30 day window. So there's still that lingering question that even exist with map three. I say all of this again to reiterate that whether we're going down the map three map and not following the state Supreme Court's order, and we're going to defy that and not do anything or we're actually going to work on a map. You still have some of the same issues from just from the perspective of conducting an election.

Secretary of State Frank LaRose [01:14:30] Mr. Co-chair, let me respond to that, if I may?

Co-Chair Rep. Jeff LaRe [01:14:31] Please.

Secretary of State Frank LaRose [01:14:32] So all of these deadlines that we're talking about prior to the 28th of May don't apply if the third map is the thing that is enacted, because again, certifying sufficiency and validity of partisan candidates that happened on the schedule already, that was required in the code. And that's all I have to work with is what you all have instructed me to do. In the Ohio Revised Code, we can certify candidates. We have certified candidates for that, the boards of elections are prepared to do that and then of course protests to petitions and that kind of thing. All of those

deadlines are are things that have already been considered under the timelines set out in the code. And so this would only be necessary if there were a new set of maps enacted.

Co-Chair Rep. Jeff LaRe [01:15:23] Further discussion? The motion on rehiring the independent map drawers. Will the staff please call the roll.

Staff [01:15:40] Co-Chair LaRe.

Co-Chair Rep. Jeff LaRe [01:15:42] No.

Staff [01:15:43] Co-Chair Sykes.

Co-Chair Sen. Vernon Sykes [01:15:44] Yes.

Staff [01:15:45] Governor DeWine.

Gov. Mike DeWine [01:15:46] No.

Staff [01:15:47] Auditor Faber.

Auditor Keith Faber [01:15:50] No.

Staff [01:15:50] Secretary LaRose.

Secretary of State Frank LaRose [01:15:50] No.

Staff [01:15:52] Senator McColley.

Sen. Rob McColley [01:15:53] No.

Staff [01:15:54] Leader Russo.

House Minority Leader Allison Russo [01:15:55] Yes.

Staff [01:15:57] Mr. Co-Chair. Two five.

Co-Chair Rep. Jeff LaRe [01:16:00] The motion is voted down. At this time we'll move the discussion to the commission's plan of work and a meeting schedule will open that up for discussion. No discussion? Seeing none, is there any further business to be brought before the committee? Hearing none, the committee stands adjourned.

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<https://www.ohiochannel.org/video/ohio-redistricting-commission-5-5-2022>

Co-Chair Sen. Vernon Sykes [00:00:01] I would like to call the Ohio Redistricting Commission to order. Before we start, co-chair LaRe would like to make a comment.

Co-Chair Rep. Jeff LaRe [00:00:12] Certainly I understand everybody's enthusiasm, but after yesterday, I just want to remind folks that we have an overflow room just across the hall. Should anybody feel the need for clapping and cheering, that would be more appropriate. This institution was here before all of us, and it'll be here after we're all gone. So out of respect, I'd ask you to not clap and cheer so that we can hear one another in the folks listening online can hear as well. And the sergeant at arms in the back room will be happy to show anybody where that is should they need to go there. Thank you.

Co-Chair Sen. Vernon Sykes [00:00:44] Will staff please call the roll?

staff [00:00:47] Co-Chair LaRe (here) Co-Chair Senator Sykes (here) Governor DeWine (here) Auditor Faber (yes) Secretary, Secretary LaRose (here) Senator McColley (here) Leader Russo. (here) Mr. Co-Chair, a quorum is present.

Co-Chair Sen. Vernon Sykes [00:01:06] With a quorum being present, we will meet as a full commission. In your folders there are minutes of our previous meeting held yesterday. Is there motion to accept the minutes.

Unidentified [00:01:18] so moved

Co-Chair Rep. Jeff LaRe [00:01:19] seconded

Co-Chair Sen. Vernon Sykes [00:01:19] its been moved and seconded, is there any objections to the minutes being approved? Hearing none, the minutes are therefore approved. This time we'd like to know if there's any further business to be conducted here by the Commission. I will call on Leader Russo.

House Minority Leader Rep. Alison Russo [00:01:39] Thank you. Co-Chair. I'd like to make a motion to adopt the independent mapmakers maps as identified, as modified by Dr. Rodden and presented to the State and Federal Courts and uploaded to the Commission website.

Co-Chair Sen. Vernon Sykes [00:01:52] Second, the motion.

House Minority Leader Rep. Alison Russo [00:01:55] Great. As everyone knows, the independent map drawers completed the work that they were hired to do. They produced constitutional maps that were also more compact than any of the commission maps that have been adopted so far. As with any house that is built, inspection usually reveals a punch list of little fixes needed to make everything just right. The same is true with any set of maps, and the short punch list that was identified has also had each item addressed. So for us we have a modified independent map drawer's map, and I think those are going to be passed out if they haven't already. It's been available to all of us since April 8th. You have the handouts describing the map before you color maps, partizan stats, information about precisely what was fixed within the maps by Dr. Rodden as presented to the state and federal courts. Yesterday we heard the governor say that we must adopt constitutional

maps if it can be done. Well, it can be done. And that has been noted by the courts. It was done. That was also noted by the courts. And those maps are now before us with this motion. I will remind my fellow commissioners that we are under a court order to adopt a constitutional set of maps by 9 a.m. tomorrow morning, regardless of any implementation timelines or impediments or an election cycle. And I recommend support of this motion.

Co-Chair Sen. Vernon Sykes [00:03:41] Senator McColley

Sen. Rob McColley [00:03:43] Thank you, Mr. Co-Chair. I would be opposed to working off of these maps. There are several reasons. Number one, I know there's there's been some been some assertions that this was a finished product of the independent mapmakers or that they finished their work that night. And I understand what Leader Russo is saying, that there were several items that needed to be changed. Small items. But but I would I would note a few things. Dr. Johnson, in his sworn affidavit, said several things in anticipation of the the federal court case, I believe, where he mentioned that he did not finish his work on this map. And he further mentioned that, as you guys are all aware in the rules regarding the independent mapmakers, there was a requirement that none of the caucus mapmakers inject their maps or draw the maps themselves for the independent mapmakers. Dr. Rodden, in his affidavit further stated that there were a full 21 House districts and seven Senate districts that were literally taken from Mr. Glassburn and put into the map in violation of the rules established by this commission. And so the maps were neither finished nor in accordance with the rules of this commission. The next question I have is, who finished the maps? It's Dr. Rodden and Dr. Rodden did it outside the purview of this commission. He did it without the guidance of this commission. And beyond that, you have to ask yourself where, who, who, who is Dr. Rodden and what's his relevance to the case at hand? He is a paid expert by the attorneys that are the petitioners in this case and the Eric Holder aligned groups. And so I think it would be improper for us to use this Rodden map as a starting point for continuing our conversations and that's regardless of the reasons that the Secretary of State had mentioned yesterday and the objections that I think he still holds today. Thank you.

Co-Chair Sen. Vernon Sykes [00:06:10] And are the additional comments?

House Minority Leader Rep. Alison Russo [00:06:13] Mr. Co-Chair, I'd like to respond to that

Co-Chair Sen. Vernon Sykes [00:06:15] Leader Russo.

House Minority Leader Rep. Alison Russo [00:06:16] Thank you. Thank you, Mr. Co-Chair. To be clear, this map is finished. In fact, what Dr. Johnson said in his testimony was that he had not finished inspecting and reviewing and double checking the maps. After that, they were complete. And that is what Rodden did. That was submitted to both the court, the federal court, and as well as the state Supreme Court. So my question to the commission and for those who are opposed to this map, and I suppose I'll start with Senator McColley specifically what violations of Article 11, Sections two, three, four or five and seven have been identified within this corrected map that has been presented before us?

Co-Chair Sen. Vernon Sykes [00:07:04] Senator McColley.

Sen. Rob McColley [00:07:06] Thank you, Co-Chair. As I mentioned in my response earlier, it was regardless of the issues that Secretary LaRose illustrated, however, many of

those issues remain for me. So regardless of whether this map complies or not, although I have reason to believe looking at some of the districts, there could be some some issues. Regardless of that fact, I share many of the same concerns of the secretary. And so I cannot in good conscience support this map.

House Minority Leader Rep. Alison Russo [00:07:41] Senator?

House Minority Leader Rep. Alison Russo [00:07:42] Leader Russo.

House Minority Leader Rep. Alison Russo [00:07:43] I thank you. Co-Chair. So if I'm understanding correctly, again, we have a constitutional map that is before us that has been verified, has no constitutional violations of Article 11, Sections two, three, four, five and seven. And as a reminder, we are under a court order to adopt a constitutional set of maps by 9 a.m. tomorrow morning. Regardless of any implementation challenges, regardless of what election cycle we do or don't think that this will apply to. So I recommend support of this motion and would ask the commissioners, if not adopting a constitutional map today, will put us at risk of contempt.

Co-Chair Sen. Vernon Sykes [00:08:32] Any additional comments? Auditor Faber.

Auditor of State Keith Faber [00:08:44] Yeah. Yeah. I had trouble adopting this map that I learned about today for the first time at 3:00 or thereabouts. The fact of the matter is, this map was not completed by the independent map drawers who, frankly, as the evidence would show, may have not have been all that independent. But regardless, the obligation was on us to draw map. As we all know, a number of us had amendments to be offered that the were not able to be considered in the time frame that the independent or the the map drawers had. It was our obligation to draw map not on to people that we hired, particularly when we couldn't even offer amendments to that map or talk about suggestions as to where they are, whether this map meets all the provisions of two, three, four or five and seven, I have no idea. I have not had a chance to review it in detail. And from that reason, and because of the reasons articulated by Secretary LaRose, I think it's inappropriate for us to be voting on that map as completed by one of the petitioners and their lawyers. Make no mistake, the Mark Mark Elias group, who apparently submitted this map and Mr. Rodden, who works for them, I've had things that I liked Mr. Rodden had done and thought might be a workable spot in the past. However, this map and these changes, I don't believe, represent that. I don't believe they're fair. And I believe they're gerrymandered in front of in favor of one of the parties. So I will be a no vote.

Unidentified [00:10:05] [inaudible audience chatter]

Co-Chair Sen. Vernon Sykes [00:10:09] Governor DeWine

Governor Mike DeWine [00:10:10] Mr. Chairman, thank you very much. In addition to these problems, there is another problem. Yesterday, after our meeting, I sat down with Secretary LaRose and went over the problems that he had articulated and we spent some quite some time to do doing that. I asked him then at the end of our discussion to reduce to writing what his position was. And I would like, if I could, Mr. Chairman, to to yield to the Secretary to explain those problems.

Unidentified [00:11:00] [inaudible audience chatter]

Governor Mike DeWine [00:11:03] Let me just say, Mr. Chairman, it was in more detail. And I think I got a fuller understanding of what he said and it is clear to me that it is impossible to proceed with an August 2nd primary with any map other than map three. That's the conclusion he comes to.

Secretary of State Frank LaRose [00:11:34] Absolutely.

Unidentified [00:11:34] [inaudible audience chatter]

Governor Mike DeWine [00:11:36] So I think that is relevant. Mr. Chairman, I think that is relevant. Members of the committee. I think that is relevant to this discussion, too. And I would ask if the Secretary could explain that at this point.

Co-Chair Sen. Vernon Sykes [00:11:52] One question to the governor, do you think it would be more relevant? I understand there may be another motion for consideration of map 3?

Governor Mike DeWine [00:11:58] Mr. Chairman, if you rather have that explanation later, that's fine. I couldn't decide whether to do it now because I think it does have some relevance to this. But you're right, it probably has more relevance later. And if you want to do it later. I'm perfectly fine with it.

Co-Chair Sen. Vernon Sykes [00:12:14] Okay. We'll do it later.

Governor Mike DeWine [00:12:15] Thank you.

Co-Chair Sen. Vernon Sykes [00:12:17] Leader Russo.

House Minority Leader Rep. Alison Russo [00:12:18] I thank you. Co-Chair. I would like to address the issue of having these maps before us. Again, I would like to remind members of this commission that these maps were actually filed with the court on April 8th and April 12th. They've actually been delivered by the counsel of the plaintiffs to all of the counsel of members of this commission. So we have all had plenty of time and access to these maps. They are virtually the same as the maps that the map drawers completed on March 28th. And again, we again have a constitutionally compliant map in front of us. That is what the court has ordered us to do, is to adopt a constitutionally compliant map by tomorrow morning at 9 a.m.. Again, not with consideration of whether or not implementation of this map or the election cycle that this map would be used. That is the court order before us. And, you know, again, I would propose back to the members of the commission. If you are not happy with these maps, why no amendments have been offered to change this map if there were changes that you wanted to make.

Co-Chair Sen. Vernon Sykes [00:13:43] Are there additional comments? Will the staff please called roll?

staff [00:13:53] Co-Chair LaRe?

Co-Chair Rep. Jeff LaRe [00:13:55] No.

staff [00:13:56] Senator Sykes?

Co-Chair Sen. Vernon Sykes [00:13:58] Yes.

staff [00:13:59] Governor DeWine?

Governor Mike DeWine [00:14:01] No.

staff [00:14:01] Auditor Faber?

Auditor of State Keith Faber [00:14:02] No.

staff [00:14:03] Secretary LaRose?

Secretary of State Frank LaRose [00:14:04] No.

staff [00:14:05] Senator McColley?

Sen. Rob McColley [00:14:06] No.

staff [00:14:07] Leader Russo?

House Minority Leader Rep. Alison Russo [00:14:08] Yes.

staff [00:14:09] Mr. Co-Chair. Two-Five.

Unidentified [00:14:11] [inaudible audience chatter]

Co-Chair Sen. Vernon Sykes [00:14:16] Order! Please! Order, please. Order, please.

Unidentified [00:14:20] [inaudible audience chatter]

Co-Chair Sen. Vernon Sykes [00:14:25] The motion fails. Is there any other business to be brought before the commission?

Unidentified [00:14:31] [inaudible audience chatter]

Governor Mike DeWine [00:14:37] Mr. Chairman?

Co-Chair Sen. Vernon Sykes [00:14:39] Governor DeWine.

Governor Mike DeWine [00:14:40] I wonder if we now could have the explanation. Again, I asked the Secretary to reduce it to writing. I think it is, at least for me, was a more fuller, after reading this two pages, more full understanding of exactly the the quandary we are in or the very difficult situation that we are in. And I would ask if he could explain that.

Co-Chair Sen. Vernon Sykes [00:15:03] Are you making a motion just want the explanation?

Governor Mike DeWine [00:15:06] Not at this point, but we will have a motion.

Co-Chair Sen. Vernon Sykes [00:15:08] Okay.

Secretary of State Frank LaRose [00:15:09] Happy to do so, Mr. Chairman.

Co-Chair Sen. Vernon Sykes [00:15:12] Secretary LaRose

Secretary of State Frank LaRose [00:15:13] Yeah. Thank you, Mr. Chairman. Thank you, Governor. I'm going to read this. Normally, I wouldn't read something verbatim, but I think it's important for everybody to hear it. It's been passed out to the members of the commission right now, and there'll be copies for the members of the public and the press as well. This is a statement that I wrote today. As of today, a primary election date for the offices of state representative, state senator and political party state central committee member has not been established. The Ohio General Assembly has the sole authority in the Ohio Revised Code to set the time, place and manner of a public election conducted in the state of Ohio. The only other government entity that can supersede that authority is a federal court of law. A three judge panel assigned to consider the Ohio General Assembly redistricting case, *Gonidakis et al. v. LaRose* has ordered that if the state does not adopt a lawful district plan and set a primary election date before May 28, quote, "We will order the primary, be moved to August 2nd and map 3 be used for [the on- for] only the 2022 election cycle. After that, Ohio will have to pass a new map that complies with federal and state law." As of this date, the Ohio General Assembly has not set a primary election date for the above mentioned contests. Any action doing so would require an emergency clause to make the election date and its associated deadlines effective immediately. The Speaker of the House and the president of the Ohio Senate have indicated publicly that they lacked the required two thirds vote in both chambers to enact emergency legislation for this purpose. Therefore, the only remaining option to conduct a primary election to which Ohio voters are entitled is the prescribed action by the federal district court. My office,

Co-Chair Sen. Vernon Sykes [00:16:53] Order please.

Secretary of State Frank LaRose [00:16:53] My office and the bipartisan Ohio Association of Elections Officials have repeatedly stated that because August 2nd, 2022, is already reserved for special elections in Ohio law, it is the only date on which a statewide primary election can be conducted in advance of the scheduled general election, of course November 8, 2022. August 2nd, 2022 is the latest date by which Ohio can conduct a primary election without overlapping or altering the scheduled timeline to successfully administer a general election. This is also recognized by the three judge panel in *Gonidakis et al. v. LaRose* and uncontested by any of the parties involved in that litigation. Under Ohio law elections are conducted over at least a 90 day period. 89 days now stand between this date, today and August 2nd, 2022. This puts Ohio within the traditional statutory window for administering its next election. Federal panel majority in *Gonidakis* stated clearly that for any new district plan to be utilized for an August 2nd, 2022 primary election and to have the benefit of a full 90 day election administration period, the Commission would need to adopt it by April 20th, 2022. Obviously, that did not happen. Their opinion is based on testimony from my staff that the 88 county boards of election would collectively need at least two weeks to reprogram their computer systems to new House and Senate districts before the full 90 day primary election period would begin, which would also do the least amount of damage to current Ohio election law. To administer an August 2nd election the boards must meet a series of statutory and administrative deadlines to have the first ballots, the first ballots which are known as the Uniformed and Overseas Civilians Absentee Voting Ballot Act, or UOCAVA ballots. Those must be prepared not later than June 17, 2022, 46 days before the election. To achieve this, elections officials must meet the following statutory requirements, these are those requirements: have to certify no later than 78 days before the primary election, hold protests against certified candidates no later than 74 days before the primary election, determine the validity or invalidity of the declaration of candidacy and petition, receive

write in candidate declarations of intent for partisan offices, hold protests against write in candidates no later than 67 days before the election, the Secretary of State must certify to boards of elections the form of the official ballot no later than 70 days before the primary election, and then boards of elections of the most populous counties in a multi county district must certify names of all candidates to the other county boards of elections in the district no later than 70 days. Boards of elections need at least two weeks, as I stated before, to reprogram voter registration and tabulation systems to accommodate a new map, which, as of this date takes us to at least May 19th were a new map to be passed. At this point, the boards would already be in violation of state law unless the General Assembly changes the statutory deadlines. Additionally, my office would not instruct the boards to deprogram map three before May 28. Risking the new map could be invalidated with no immediate options to administer a primary election. This administrative delay also reduces or nearly eliminates the required process election officials must complete to conduct testing on all voting equipment proof ballots, test ballots, recruit poll workers, and order absentee ballot absentee and Election Day ballots. These are the some of the issues that I detailed for you all yesterday. In summary, the last day, a new map could have been ordered and implemented without ordering altering current statutory deadlines that proceed in August 2nd, 2022. Primary election was April 20th, 2022. The General Assembly has not set a new primary date and its leaders have publicly stated that they do not have the votes to pass emergency legislation to do so. All but two of Ohio's 88 County Board of Elections have fully programed the Third General Assembly District plan adopted by the Ohio Redistricting Commission. A majority of the federal panel considering Gonidakis recognized that map 3 has administrative advantages of implementation that no other map produced by the Commission to date presents, including a largely completed candidate certification process that also would not require the revisiting of deadlines and residency requirements. Therefore, map 3 is the only viable option, the only viable option to effectively administer a primary election on August 2nd, 2022. If on May 28th, 2022, the Federal Court orders that Ohio used Map three and sets that primary election date for August 2nd, 2022, my office will be prepared to issue a directive to the Boards of Elections, implementing that order and providing detailed instructions on the administration of a successful primary election, wanted to state, quickly, for reiteration purposes, the Speaker and the President have made it abundantly clear that they lacked the votes for an emergency clause legislation. They said that to us yesterday, and while I'm always willing to strive to accomplish something worthwhile, I'm certainly not interested in exercises in futility. And so what we have to work with is map 3. It's important to understand that earlier this year, when the commission adopted Map 3, my office began conducting the required statutory deadlines that are laid out in code for Map 3. We dutifully followed the law under Map 3 by sending out directives,

Co-Chair Sen. Vernon Sykes [00:22:39] Order please, please.

Co-Chair Rep. Jeff LaRe [00:22:43] Committee will stand at ease.

Secretary of State Frank LaRose [00:22:46] We dutifully followed the law... [committee stands at ease]

Secretary of State Frank LaRose [00:24:12] [reconvene] Appreciate that. So as I was stating, once Map 3 was adopted by this commission, our office dutifully followed the law with all of the timelines laid out in the law, including, administering directives to the boards of elections that told them to accept and review candidate petitions, allow for the protest period to begin. It also informed candidates how to utilize their rights under 9-C should they wish to move and even issuing the form of the ballot as well as posting a federal write

in ballot absentee notice which is required under federal law. All of those things occurred prior to the court's invalidation. So effectively, the Court the, the Ohio Supreme Court pressed pause on all of those elections administration processes if the federal court on the 28th of May were to overturn the ruling of the Ohio Supreme Court, essentially validating the third map. Our office is fully prepared to press play again on all of those processes which need to continue. That simply stated, is why MAP 3 is the most viable option from the elections administration standpoint. And with that, Mr. Chairman, I appreciate the time.

Sen. Rob McColley [00:25:26] Mr. Chairman, mr. Chairman.

Co-Chair Sen. Vernon Sykes [00:25:31] Yes, Senator McColley,

Sen. Rob McColley [00:25:35] Thank you. For for all the reasons we've discussed here today and those enumerated by Secretary LaRose's statement, I move that the Commission resubmit the February 24th, 2022 Commission Group plan only for use in the 2022 election, and the statement to the Redistricting Commission by Ohio Secretary of State LaRose to the Secretary of State's office no later than 9 a.m. tomorrow morning in response to the Ohio Supreme Court's order dated April 14, 2022. And after filing with the Secretary's office, counsel for the Redistricting Commission shall file the February 24th, 2022 Commission Approve Plan and the statement to the Redistricting Commission by the Ohio sec- by Ohio Secretary of State LaRose with the Ohio Supreme Court not later than 12 p.m. tomorrow in response to the Ohio Supreme Court's order dated April 14, 2020.

Secretary of State Frank LaRose [00:26:26] Second, second

Co-Chair Sen. Vernon Sykes [00:26:30] Is there a second? Leader Russo.

House Minority Leader Rep. Alison Russo [00:26:41] I thank you, co-chair. First, I would like to say and be very clear about this, that the federal court has not overturned a state court decision. Nor have they given us a loophole to simply ignore a court order. And this commission does not have the authority to only set a map for two years. We don't have that authority. We can vote to set a map out for four years or for a ten year map. That is the authority that we have. So my question for the Secretary of State that Secretary LaRose, after hearing your explanations, are you saying that you object to a constitutional compliant, constitutionally compliant map that was submitted the independent mapmakers map with the corrections by Rodden simply because of this implementation timeline or because the order itself, again, is not about implementation, it is about instituting a constitutionally compliant map.

Secretary of State Frank LaRose [00:27:49] There's two responses to that. Mr. Chair, if I may.

Co-Chair Sen. Vernon Sykes [00:27:51] Yes, please.

Secretary of State Frank LaRose [00:27:52] The first one is that, as I stated yesterday, in order to use that map to conduct an election, we would need to have supermajority votes in both chambers. And the Speaker and the President have made it clear to me that the votes for those for the for such legislation does not exist. And so I'm not interested in creating a situation where our elections officials are handed an untenable and unaccomplished situation. So unless there was a vote of the legislature to set the date and then change the deadlines associated with it, no map is something that I'm willing to consider at this point. Second, I guess I don't share your confidence that the map that you

presented today is void of any constitutional violations. You have stated that. But I have I guess I don't share that same optimism that that map is divinely inspired or perfectly void of any kind of constitutional violations.

Co-Chair Sen. Vernon Sykes [00:28:52] I would like to I'd like to move that we take a recess to consult with the commission's attorney to give us some advice as relates to map 3, whether or not is constitutional and or whether or not we are subjecting this commission to further charges of contempt.

Sen. Rob McColley [00:29:13] I object.

Secretary of State Frank LaRose [00:29:16] I object as well.

Co-Chair Sen. Vernon Sykes [00:29:22] I second the motion

Co-Chair Sen. Vernon Sykes [00:29:26] Any additional comment?

Secretary of State Frank LaRose [00:29:27] There is an objection

Co-Chair Sen. Vernon Sykes [00:29:31] Will this staff please call the roll.

Sen. Rob McColley [00:29:34] To be to be a point of order. This is on the motion to recess correct?

Co-Chair Sen. Vernon Sykes [00:29:38] On the motion to recess

staff [00:29:43] Co-Chair LaRe

Co-Chair Rep. Jeff LaRe [00:29:44] No

staff [00:29:45] Co-Chair senator Sykes

Co-Chair Sen. Vernon Sykes [00:29:46] Yes

staff [00:29:47] Governor DeWine.

Governor Mike DeWine [00:29:48] No

staff [00:29:48] Auditor Faber

Auditor of State Keith Faber [00:29:50] No

staff [00:29:51] Secretary LaRose

Secretary of State Frank LaRose [00:29:52] No

staff [00:29:53] Senator McCauley.

Sen. Rob McColley [00:29:54] No

staff [00:29:55] And Leader Russo

House Minority Leader Rep. Alison Russo [00:29:56] Yes.

staff [00:29:58] Mr. Co-Chair, two-five.

Co-Chair Sen. Vernon Sykes [00:30:00] Motion fails.

Secretary of State Frank LaRose [00:30:01] Chairman, I move we call the question.

Co-Chair Sen. Vernon Sykes [00:30:10] Staff please called the roll

staff [00:30:15] Co-Chair LaRe.

Co-Chair Rep. Jeff LaRe [00:30:16] Yes.

staff [00:30:17] Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:30:18] No.

staff [00:30:19] Governor DeWine.

Governor Mike DeWine [00:30:20] yea

staff [00:30:21] Auditor Faber.

Auditor of State Keith Faber [00:30:23] Consistent with my vote on this map the first time, because I believe it has constitutional infirmities, particularly because I believe it's unconstitutional as a drawn map in favor of one political party, the Democrats. I don't believe this map supports the constitutional test. And therefore, even though I understand the need to get a map in place, I think if the federal courts want to impose it, they can do that. I'm a no vote.

Sen. Rob McColley [00:30:52] Mr Chariman, more point of order.

Co-Chair Sen. Vernon Sykes [00:30:54] Yes.

Sen. Rob McColley [00:30:55] A motion to call the question is a separate motion from the actual question. Correct. I'm just confirming that. And so this vote is on a motion to call the question. It's not on the actual question. That was the motion.

Auditor of State Keith Faber [00:31:10] Thank you. Thank you for that clarification Senator McColley and for calling the question? Yes. [inaudible audience chatter, simultaneous]

staff [00:31:17] I'm sorry Mr. Co-Chair, I did not hear what Auditor Faber said

Co-Chair Sen. Vernon Sykes [00:31:31] He indicated that he, uh, yes. The yes, the yays prevail. So we will call the question now on the motion.

Sen. Rob McColley [00:31:41] Mr. Chairman, that I don't believe my name was called on the previous motion. I just want to make sure it's a it's a yes vote.

staff [00:31:48] Would you, Mr. Co-Chair, would you like me?

Co-Chair Sen. Vernon Sykes [00:31:49] Please call the name Senator McColley

staff [00:31:54] Senator McColley.

Sen. Rob McColley [00:31:54] yes

staff [00:31:54] Secretary LaRose

Secretary of State Frank LaRose [00:31:54] Yes

staff [00:31:55] Leader Russo.

House Minority Leader Rep. Alison Russo [00:31:56] No.

staff [00:31:58] 5 to, to 2, sir.

Co-Chair Sen. Vernon Sykes [00:32:02] At this point, we will call to question then on the motion. Staff, please call the role.

staff [00:32:10] Co-chair LaRe

Co-Chair Rep. Jeff LaRe [00:32:12] Yes.

staff [00:32:14] Co-Chair Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:32:15] No.

staff [00:32:16] Governor DeWine.

Governor Mike DeWine [00:32:17] yes.

staff [00:32:17] Auditor Faber.

Auditor of State Keith Faber [00:32:20] For all the reasons I previously articulated, I am a no vote because I believe it is a constitutional gerrymanders.

staff [00:32:29] Secretary LaRose.

Secretary of State Frank LaRose [00:32:30] Yes.

staff [00:32:31] Senator McColley.

Sen. Rob McColley [00:32:32] Yes

staff [00:32:33] Leader Russo [audience chatter]

House Minority Leader Rep. Alison Russo [00:32:35] Consistent with a previous Supreme Court order and ruling that has already indicated that this map is not constitutional, I vote no.

staff [00:32:44] Mr. Co-Chair 4-3

Co-Chair Sen. Vernon Sykes [00:32:50] The motion is approved. Is there any further business to be brought before the Commission today?

House Minority Leader Rep. Alison Russo [00:32:55] Mr.,

Co-Chair Sen. Vernon Sykes [00:32:56] Yes.

House Minority Leader Rep. Alison Russo [00:32:57] Are we going to see the statement?

Co-Chair Sen. Vernon Sykes [00:32:58] Yes. [audience chatter] It's improper at this time. Do you have the majority report We have a requirement, if I have order.

Unidentified [00:33:24] [audience chatter] [committe stands in recess]

Co-Chair Sen. Vernon Sykes [00:33:35] [reconvene] at this time, we will call on Leader Russo for a Minority Report.

House Minority Leader Rep. Alison Russo [00:33:54] Thank you. Co-Chair Sykes. Ladies and gentlemen, the majority commissioners of the Ohio Redistricting, Redistricting Commission failed once again to uphold their duty to the Ohio Constitution and the people of Ohio. They failed to adhere to the old adage that those who cannot remember the past are condemned to repeat it. Unfortunately, we are not today dealing with ancient history, but instead in recent events we are again left with a blatantly unconstitutional plan that brings us no closer to the goal of a constitutionally compliant map. The actions taken by the majority are a clear affront to the Supreme Court of Ohio. The majority sat on their hands and adopted a plan today that we all know is unconstitutional. Once again, the majority members dragged their feet, they ignored our calls for action, defied the Supreme Court of Ohio, and paid no mind to the reforms adopted into our Constitution by the voters of Ohio at the last minute. The Commission once again adopted a patently unconstitutional map. In fact, it is simply a resubmission of Map 3 without seriously considering any widely available constitutional alternatives. The majority commissioners performed exactly as the dissent in the federal case of *Ganidakis versus LaRose* predicted. They did nothing and tried to run out the clock and a bad faith effort to punt the responsibility to another entity, prizing their partisan advantage over their duty as public servants sworn to uphold the rule of law. The federal court presumed that, quote, "Ohio's officials are public servants who still view partisan advantage as subordinate to the rule of law and that it would be, quote, 'in our own self-interest to pass a new map rather than accept map three.'" The majority commissioners have ignored this call to adhere to the rule of law and rise above partisan interest. The majority did not take us down this path by mere accident. The events that led us back here were not committed through incompetence. We are here purposefully. The majority had plenty of time to meet all the criteria presented by the Supreme Court of Ohio. There were some members of this commission who made consistent and clear efforts to meet those standards set by the court. And instead of action, our calls were met with silence or indifference. The Commission should have met numerous times between April 14th and today, and instead we met yesterday and adjourned abruptly without even fully discussing our sparse agenda. And at that meeting, the majority commissioners seemed much more interested with the Democratic caucuses map drawing consultant than they did with actually meeting a Supreme Court ordered deadline for a set of constitutional maps. The Supreme Court of Ohio gave every reason for the Ohio Redistricting Commission to reengage our independent map drawers, Dr. McDonald and Dr. Johnson and allow them

the few hours needed to finalize their maps from the last round of map drafting. Beginning April 14th, the time allotted to the commission was more than enough to reengage the map drawers provide them with the commissioner's feedback, debate potential amendments and finalize a constitutional set of maps. Instead, no action was taken, and less than two days before our May 6th, 9 a.m. deadline, the majority instead refused to reengage with the independent map drawers. The deficiencies of the map, adopted on May 5th by a vote of 4 to 3 are well known by commissioners, the court and the general public. The map fails to live up to the requirements in the Ohio Constitution, Article 11, Section 6-A and 6-B. The act of passing an unconstitutional map is egregious. It's egregious enough in its own right, but resubmitting an identical copy of a map already struck down by the Supreme Court of Ohio is indefensible. The majority commissioners have no defense, and they refused even to provide a pretense for their actions by abiding by the requirement in Ohio's Constitution, Article 11, Sections 8-C-2 to explain the constitutionality of their actions. The majority commissioners have ignored the Ohio Supreme Court and have not only refused to work on a new plan, as we have been given time and again directed to do, but have passed a plan that the Supreme Court of Ohio has already found to be unconstitutional. This is a clear slap in the face of Ohio voters and of the rule of law.

Co-Chair Sen. Vernon Sykes [00:39:38] The report does not require a vote and will be accepted in the record. Is there any further business? The meeting is adjourned.

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*,

Petitioners,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1193

Bria Bennett, *et al.*,

Petitioners,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1198

Ohio Organizing Collaborative, *et al.*,

Petitioners,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1210

AFFIDAVIT OF DR. DOUGLAS JOHNSON

1. I am over the age of eighteen (18) and am competent to testify to the matters set forth herein. The following is true of my own personal knowledge and I otherwise believe it to be true.

2. I am the President of National Demographics corporation and have consulted on redistricting nationally. A copy of my CV is attached.

3. I was hired by the Ohio Redistricting Commission on March 21, 2022 to serve as an independent mapmaker to draft a fourth General Assembly districting plan along with Dr. Michael McDonald.

4. The primary six requirements applied to our work:

- a. Equal Population (state and federal requirement)
- b. Meet the geographic requirements of Ohio Constitution Sections 2, 3, 4, and 7
- c. Meet the Section 5 Senate drawing and assignment requirements of the Ohio Constitution
- d. Meet the Section 6 requirement of the Ohio Constitution to not favor a political party
- e. Meet the Section 6 requirement of the Ohio Constitution for partisan proportionality
- f. Meet the Section 6 requirement of the Ohio Constitution to draw compact maps

5. Ohio's complex geography and complex geographic requirements for redistricting mean that mapmakers must alternate back and forth between House and Senate maps until arriving at a map that meets the requirements for both House and Senate districts. No House map is complete until the Senate map is complete, and vice versa.

6. The intricate boundaries of Ohio villages, cities and townships also require a thorough review after a set of General Assembly maps are drawn to ensure that all of the Section 2, 3, 4, 5 and 7 geographic requirements are met. As the various Ohio Supreme Court rulings note, drafters of a number of earlier map proposals thought they have satisfied the Constitutional requirements of sections 2, 3, 4, 5 and 7 but were later determined to be unconstitutional.

7. We used the software Maptitude for Redistricting, which is customarily used for redistricting work across the county. It has been used by all the various mappers in Ohio redistricting, and it includes a number of reports that are handy in identifying inadvertent and potentially unconstitutional splits of counties, townships, cities and villages. Because the Maptitude reports are not tailored to the specific requirements of Ohio, the reports require a line-by-line review once they are generated to identify what are, and are not, constitutional divisions of the various jurisdictions. For example, a Maptitude report will identify a city split but the mappers must review the split to identify whether it is across a county boundary (and thus constitutional) or if it is unconstitutional.

8. As independent mapmakers, Dr. McDonald and I met with the Commission on Wednesday, March 23, 2022 and began our mapping work on Thursday, March 24, 2022.

9. Dr. McDonald and I suggested to the Commission that we would consult with the staff of the Republican and Democratic commissioners. If we asked for guidance on an issue and both sides agreed we would incorporate that into our maps, but if there was disagreement we would bring it to the Commission for direction. The Commission did not formally approve that direction, but there was no objection and I proceeded using that approach through Sunday.

10. On Thursday, Friday, Saturday and Sunday, I believe Dr. McDonald and I generally operated as independent mapmakers: we would ask, and staff from the Republican and Democratic caucuses would tell us, if an option we were considering was sure to run into a violation of Sections 2, 3, 4 and/or 7 (the Constitutional geographic requirements for redistricting). But otherwise I, and I believe Dr. McDonald as well, generally made the mapmaking decisions on our own for our separate maps. (I am sure some exceptions to this have been noted from the video and transcripts, but as a general rule this was true through Saturday and for most or all of Sunday).

11. On Monday, March 28, 2022, it was clear that we were not going to finish a map before the Court's midnight deadline without more direct guidance from Commission members' staff.

12. As the deadline loomed, Mr. Chris Glassburn, of Democratic staff, provided us a "seven counties" map he had previously drawn. This map cleaned up the Section 5 concerns in the seven northeast counties of the state, covering seven senate districts and twenty-one house districts. If Dr. McDonald and I had drawn this area on our own, we would never have come close to finishing a map in time for the midnight deadline. No Republican staff member or Commission member gave approval of the use of Mr. Glassburn's districts.¹

13. Dr. McDonald and I reviewed the partisan lean of Mr. Glassburn's "seven counties" districts and we made small changes to a handful of the districts in Cuyahoga County to maintain the partisan symmetry of our previous map. We did not – as Senator Huffman asked us to do when the map was first presented to the Commission with a split of Cleveland Heights – do a thorough review of every change that the "seven counties" map made to the previous House and Senate maps Dr. McDonald and I had drawn.

14. Given the time crunch of the midnight deadline, map revisions/alternatives requested by the State Auditor were never drawn. Also, per the policy mentioned above, the final map that was drafted included a configuration of Mahoning County that Dr. McDonald and I drew into the map on the condition that it would be run past the commission members' staff or the Commission. Mr. Blake Springhetti, Majority Director of Finance for the Ohio House of Representatives and Commission staffer for Speaker Robert R. Cupp, later conveyed the Republican commissioners' objection to that configuration of the districts in Mahoning County,

¹ That said, I was informed that Ray DiRossi, budget director for the Ohio Senate, was very sick that day and unable to attend.

but I ran out of time to change it (at that point in the timeline Dr. McDonald had been required to leave due to his teaching commitment the next day).

15. So the final House map that was drafted included the Mahoning County configuration that should have been redrawn if there had been sufficient time, and essentially all of the "seven counties" map drawn by Mr. Glassburn was incorporated despite a lack of sign-off on those districts by the Commissioners or their representatives.

16. All of these issues arose from the very challenging timeline. Here is the rough breakdown of independent mapmaker activity on Monday. These are from my memory and the "created" dates on the data handover demographic summary and block assignment files. If there is disagreement between my recollections and what is shown on the available videos, the video should be the controlling source.

Monday, March 28 timeline	
11:30 am	Excel file with list of House and Senate incumbents received
Roughly 12pm	List of House and Senate incumbents geocoded and imported into independent mapmakers' House maps
7:20pm	House map drawn addressing House pairings ("House Merged 5")
9:04pm	Senate map built from the pm House map hit a "brick wall" and failed (This was "Senate Merged 5", which has two House districts unassigned to Senate districts and completely surrounded by House districts already assigned to Senate districts, and thus was never provided to Commission staff or posted online)
10:23pm	House map redrawn in the hopes of creating pathways around those "brick walls" without creating new problems ("House Merged 6")
11:25pm	Senate map drawn based on the 10:23pm House map drawn ("Senate Merged 6"); House and Senate "Merged 6" maps provided to Democratic Commission staff

17. While Dr. McDonald had to leave at 5pm on Monday, March 28, 2022, he called me from the airport to say that he recognized a population problem in one of the House districts in Wood County. Dr. McDonald also said Mr. Glassburn knew how to fix the population problem while preserving the competitive nature of that district. I took an initial shot at fixing the district

on my own, but it was getting clear at that point (6:07pm) that there was no way to complete an "independent" map by the midnight deadline. Thus I relied on Mr. Glassburn to identify the township that could be shifted to population balance the district while keeping the district competitive.

18. After drawing the 10:23pm House map, I am confident that I could have eventually found the way to a Senate map that worked with the 10:23pm House map but not by the deadline. Thus I relied on Mr. Glassburn guiding me to at least one of the pathways to a Senate and House map that could work. I handed that Senate map off to Democratic Commission staff at 11:25pm, simultaneously confirming that (as far as I know) it worked with the 10:23pm draft House map. While it seemed to work, for the reasons listed below, I cannot say it was a final constitutional map.

19. As noted above, the Maptitude software has a number of reports that measure compactness and that are handy in identifying whether a map complies with the Section 2, 3, 4 and 7 requirements of the Ohio Constitution. Unfortunately I did not have any time to run those reports before the midnight deadline. In drawing the maps I believe I can speak for Dr. McDonald and myself in saying we made every effort to ensure they followed all federal, state constitution and Ohio Supreme Court direction. But we did not have time to run and review the reports that would have confirmed that.

20. And there was no time for any of the following:

- a. Balancing the compactness and partisan symmetry requirements of Section 6 as directed by the Ohio Supreme Court;

- b. Addressing any of the Commission's requested revisions to the map (the change in Mahoning County and the Auditor's requested alternative map with redrawn House districts in Toledo and Cincinnati);
- c. Delivering the map for any substantive review by Commission staff, much less by the Commissioners themselves, such as the review that led to Senator Huffman's note in the afternoon meeting that the House map at the time unconstitutionally split Cleveland Heights;
- d. Reviewing the maps to determine if there was a way to eliminate any relevant pairings among the three House districts and four Senate districts that contained pairings.

21. I also had no time to analyze, much less to present to the Commission, the challenges involved in balancing the partisan symmetry requirements of the Supreme Court rulings on Section 6 with the compactness requirements of Section 6. Nor was there any time to incorporate or even attempt any significant Commission requests for amendments other than Mr. Glassburn's "seven counties" map idea included by Mr. Glassburn.

22. The work of Dr. McDonald and I was highly constrained by the combination of (1) the state's extremely complex geographic features; (2) the state's extremely complex rules for pairing and uniting those geographic features; and (3) the extremely limited window of time to draw the maps. I hope that the final maps submitted by me (and on behalf of Dr. McDonald) met the constitutional requirements of Sections 2, 3, 4, 5 and 7, and Dr. McDonald and I made every effort as we were drawing the maps to follow those requirements, but I did not have the time to conduct the detailed review to confirm whether that is the case.

FURTHER THE AFFIANT SAYETH NAUGHT.

This the 3rd day of April, 2022.

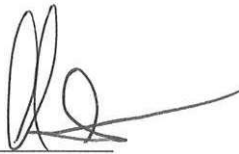
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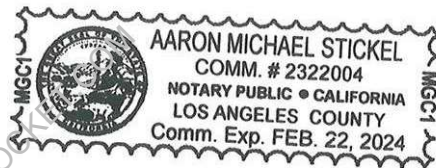

Dr. Douglas Johnson

SWORN TO AND SUBSCRIBED BEFORE ME

This the 3rd day of April, 2022.

AARON MICHAEL STICKEL
Notary Public





My Commission Expires:

02-22-2024



Douglas Johnson

Current Employment

President, National Demographics Corporation, 2006 – present

Research

Research Affiliate, Rose Institute of State and Local Government at Claremont McKenna College, 2001 – present

Past Employment

Senior Analyst, National Demographics Corporation, 2001 – 2006

Project Manager and Senior Manager at three internet startup companies, 1999 – 2001

U.S. Representative Stephen Horn, Legislative Director and System Manager, 1993 – 1997

Coro Foundation, Fellowship in Public Affairs, 1992 – 1993

Rose Institute for State and Local Government, Student Manager, 1989 – 1992

Education

Ph.D.: Claremont Graduate University, Political Science, 2015, Dissertation: "*Independent Redistricting Commissions: Hopes and Lessons Learned.*"

MBA: UCLA Anderson Graduate School of Management, 1999

BA: Claremont McKenna College, 1992

Graduated Cum Laude and Phi Beta Kappa from Claremont McKenna College, with the Philip Roland Prize for Excellence in Public Policy

Publications and Articles

- [Quiet Revolution in California Local Government Gains Momentum](#), Rose Institute of State and Local Government White Paper on California Voting Rights Act, November 3, 2016.
- [Visalia Times](#), "How to draw new city council districts," September 19, 2014.
- [Christian Science Monitor](#) "Let the public help draw voting districts," October 25, 2013.
- [Redistricting in America](#). Rose Institute of State and Local Government, 2010.
- [New York Times](#), "The Case for Open Primaries," February 19, 2009.
- [Los Angeles Times](#) Opinion Articles:
 - "A neighbor's help on redistricting" June 24, 2007.
 - "A Trojan horse primary for the GOP" February 25, 2007.
 - "Where a porn palace stood" (article on redevelopment in Long Beach, California), July 30, 2006.

- Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.
- Competitive Districts in California, Rose Institute of State and Local Government, 2005.
- Fresno Bee Opinion Article: "The Poison Handshake" June 15, 2004.
- Latinos and Redistricting: "Californios For Fair Representation" and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.
- Quoted hundreds of times in newspaper, radio and television, including interviews on CNN, the Los Angeles PBS Affiliate, Fox, and in the 2010 documentary "Gerrymandering."

Speaker or Panelist

- California School Board Association, Panelist: "Voter Districts: The Link Between Strong Community Engagement and a Successful Process," November 30, 2018 (upcoming).
- California League of Cities, Mayors and Councilmembers Executive Forum, Moderator, "The California Voting Rights Act and the District-Drawing Process," June 29, 2018.
- League of Women Voters of Burbank and Glendale, Keynote Speaker, "Town Hall meeting on SB415" (The California Voter Participation Rights Act), May 8, 2018.
- California League of Cities, City Attorney Department, panelist, "The California Voting Rights Act: Recent Legislation & Litigation Outcomes," May 3, 2018.
- California League of Cities, City Clerk Department, keynote, "California Voting Rights Act – Transitioning From At-Large To By-District Elections: A Practical Guide For City Clerks," April 19, 2018.
- California School Board Association, Panelist: "15 Years Later: The California Voting Rights Act & Lessons Learned," December 1, 2017.
- California League of Cities, City Clerk Department, Panelist: "California Voting Rights Act: Putting the 2016 Legislation into Practice," April 13, 2017.
- California League of Cities, Riverside County Chapter, presenter: "The California Voting Rights Act and Redistricting: The Demographer's Perspective," May 9, 2016.
- California League of Cities, Inland Empire Chapter, presenter: "The California Voting Rights Act and Redistricting: The Demographer's Perspective," April 14, 2016.
- California School Board Association, Panelist: "The California Voting Rights Act: What Board Members Must Know," December 4, 2015.
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."
- Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.
- Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."
- Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010
- Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.
- California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009
- Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.
- California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."
- California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, "Communities of Interest In Redistricting: A Practical Guide."
- Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, "The Arizona Independent Redistricting Commission's experiences with the first-ever independent redistricting."
- "Building a National Reform Movement," Salt Lake City, Utah, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government, 2006
- Texas Tech University, "A Symposium on Redistricting," May, 2006
- California League of Cities, "Introduction to the California Voting Rights Act."
- Classroom speaker at Pepperdine University, the University of La Verne, Pomona College, Claremont McKenna College, and Bellflower High School.

Independent and Advisory Commission Redistricting Projects

- City of Menlo Park Advisory Districting Commission, lead technical consultant, 2018
- Arizona Independent Redistricting Commission, lead technical consultant, 2001-2008
- San Diego City Council Independent Redistricting Commission, lead technical consultant, 2011
- City of Surprise Advisory Commission on Redistricting, 2011
- Pasadena City Council Advisory Commission on Redistricting, co-lead technical consultant, 2011
- Pasadena Unified School Board Advisory Commission on Redistricting, co-lead technical consultant, 2011
- City of Modesto Independent Redistricting Commission, lead technical consultant, 2011
- City of Modesto Independent Districting Commission, lead technical consultant, 2008

Traditional Districting and Redistricting Projects

- Initial as Senior Analyst and later as President, Dr. Johnson led NDC's work on **over 250** districting and redistricting projects across California, Nevada and Arizona between 2001 and today. Many are listed on NDC's [sample client list page](#).

Expert Witness Testimony and other Litigation Experience

- Expert witness declaration for the City of Redondo Beach, California, in *City of Redondo Beach vs State of California*, Los Angeles County Superior Court Case No. BS172218, litigation regarding the California Voter Participation Act (currently pending).
- Expert witness declaration for West Contra Costa Unified School District in *Ruiz-Lozito vs West Contra Costa Unified School District* litigation under the California Voting Rights Act, Contra Costa Superior Court Case Number C18-00570 (currently pending).
- Expert witness declaration, deposition and testimony for Kern County, California, in *Luna v County of Kern* litigation under the Federal Voting Rights Act.
- Expert witness declaration and testimony for North Carolina in *Covington v State of North Carolina* litigation under the Federal Voting Rights Act.
- Expert witness declaration for City of Fullerton in *Jamarillo v City of Fullerton* litigation under the California Voting Rights Act.

- Expert witness declaration for City of Whittier in *Diego v City of Whittier* litigation under the California Voting Rights Act.
- Expert witness declaration and deposition for plaintiff in *Harris vs Arizona Independent Redistricting Commission* litigation.
- Expert witness declaration and deposition for Santa Clarita Community College District in *Solis v Santa Clarita Community College District* litigation under the California Voting Rights Act.
- Expert witness declaration, deposition and testimony for City of Highland in *Garrett v City of Highland* litigation under the California Voting Rights Act.
- Expert witness declaration, deposition and testimony for City of Palmdale in *Jauregui et al vs City of Palmdale* and *Garrett v City of Highland* litigation under the California Voting Rights Act.
- Testified as 30(b)(6) "Most Knowledgeable" witness for Arizona Independent Redistricting Commission in *Arizona Minority Coalition v Arizona Independent Redistricting Commission*, including seven days of direct testimony and cross-examination in the state court case. Also testified in the related federal court case.
- Consulting expert for the following jurisdictions on their California Voting Rights Act-related cases, including preparing analysis and assisting with witness and attorney preparation:
 - City of Anaheim
 - City of Compton
 - City of Modesto
 - City of Poway
 - City of Santa Clara
 - City of Santa Clarita
 - City of Whittier
 - Santa Clarita Community College District
 - Tulare Health Care District.

Charter and/or Ballot Language Consultant

- City of **El Cajon**: consulted on writing of charter revision and public education campaign for ballot measure changing from at-large to by-district City Council elections. (2016)
- **Castaic Lake Water Agency and Newhall County Water District** consultant advising on process, rules and legislation language for merger of the two districts including changing from at-large to by-district election system. (2015-2016)
- City of **Corona**: consultant for City Council on a potential city charter and a move to by-district elections. (2015-2016)
- City of **Pasadena** (on behalf of Pasadena Unified School District): advised commission that successfully developed a city charter change moving Pasadena Unified from at-large to by-district elections and created a redistricting commission. (2011 – 2012)
- City of **Menifee**: advised commission considering language on by-district elections. (2009 – 2010)
- City of **Modesto**: advised commission that successfully developed a city charter change moving Pasadena Unified from at-large to by-district elections and created an independent redistricting commission. (2006 – 2008)
- City of **Goleta**: consulted on development of ordinances and ballot language asking voters what election system they preferred. (2003 – 2004)

Racial Bloc Voting Analysis

Extensive experience with all racial bloc voting statistical methods: homogeneous precinct analysis, Ordinary Least Squares (OLS) regression, Weighted OLS, Seemingly Unrelated Regression (SUR) and EZI ecological inference analysis.

Attorney-client privilege bars the listing of most of NDC's specific clients, but NDC has performed racial bloc voting analysis for clients of the following law firms: Nielsen, Merksamer, Parrinello, Gross & Leoni; Lozano, Smith; Atkinson, Andelson, Loya, Ruud & Romo; Dooley, Herr & Peltzer; Fagen Friedman & Fulfroost; Rutan & Tucker; among others.



Exhibit C

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Ohio Association Of Election Officials

The Election Professionals

FOR IMMEDIATE RELEASE

April 18th, 2022

CONTACT: AARON OCKERMAN
aaron@ockermanconsulting.com
614) 581-8238

ELECTION OFFICIALS PRESS FOR AUGUST 2 PRIMARY

COLUMBUS, OH- In response to an Ohio Supreme Court ruling suggesting that Ohio should delay its second primary election to a date later than August 2nd, the Ohio Association of Election Officials released the following statements.

"Ohio simply must hold its second primary election on August 2nd if we are to successfully navigate the rest of 2022. August 2nd is the key to both a successful second primary and a successful general election in November," said OAEO president Brian Sleeth.

"The Ohio Secretary of State succinctly, clearly and factually laid out to the federal district court why August 2nd is so important," added OAEO First Vice-President Sherry Poland. "Ohio has unique and important deadlines that will be negatively impacted if the election date is set any earlier or any later than August 2nd."

Ohio has a generous early voting period of 28 days, a requirement to mail overseas and military ballots 46 days before the election, and complex requirements for testing voting systems and proofing ballots that all would be impacted by any date other than that suggested by the Secretary of State. 2022 involves added complexities as boards of elections must incorporate new legislative district boundaries into multiple IT systems, a task that can take up to two weeks in some counties.

"One dissenting justice compared the redistricting process to the movie Groundhog Day. It is an apt description for election officials who feel like Bill Murray. Indeed, we are trapped in an endless cycle of fits and starts, unable to begin or conclude the important work our voters expect us to complete. The suggestion that a date other than August 2nd will work has only served to redouble confusion and consternation, just as we were beginning to see a path out of this mess," stated Sleeth.

"The federal court or the legislature must put their foot down. We need to move beyond Groundhog Day. We need to draw this primary process to a conclusion on August 2nd," concluded Poland.

In addition to serving as President of OAEO, Brian Sleeth is Director of the Warren County Board of Elections. In addition to serving as First Vice-President of OAEO, Sherry Poland serves as Director of the Hamilton County Board of Elections. The Ohio Association of Election Officials is a bipartisan organization representing Ohio's 88 county boards of elections and their staff members. Its mission is to promote fair, accurate and reliable elections through the education of its members, advocating for sound election policies, and communicating accurate information regarding the administration of elections.

Exhibit D

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**Statement to the Ohio Redistricting Commission
by Ohio Secretary of State Frank LaRose
Regarding Logistical Realities of Administering
a 2022 General Assembly Primary Election**

As of today, a primary election date for the offices of State Representative, State Senator, and political party State Central Committee member has not been established.

The Ohio General Assembly has the sole authority in the Ohio Revised Code (3501.40) to set the time, place, and manner of a public election conducted in the State of Ohio. The only other government entity that can supersede that authority is a federal court of law.

A three-judge panel assigned to consider the Ohio General Assembly redistricting case *Gonidakis, et al. v. LaRose*, Case No. 2:22-CV-773 (S.D. Ohio), has ordered that if the State does not adopt a lawful district plan and set a primary election date before May 28, "... we will order the primary be moved to August 2 and Map 3 be used for only the 2022 election cycle. After that, Ohio will have to pass a new map that complies with federal and state law."

As of this date, the Ohio General Assembly has not set a primary election date for the above-mentioned contests. Any action doing so would require an emergency clause to make the election date and its associated deadlines effective immediately. The Speaker of the Ohio House and the President of the Ohio Senate have indicated publicly that they lack the required two-thirds vote in both chambers to enact emergency legislation for this purpose; therefore, the only remaining option to conduct a primary election to which Ohio voters are entitled is the prescribed action by the federal district court.

My office and the bipartisan Ohio Association of Elections Officials have repeatedly stated that because August 2, 2022 is already reserved for "special elections" in Ohio law, it is the only date on which a statewide primary election can be conducted in advance of the scheduled General Election (November 8, 2022).

August 2, 2022 is also the latest date by which Ohio can conduct a primary election without overlapping or altering the scheduled timeline to successfully administer a General Election. This is also recognized by the three-judge panel in *Gonidakis, et al. v. LaRose* and uncontested by any of the parties involved in that litigation.

Under Ohio law, elections are conducted over at least a 90-day period. Eighty-nine days now stand between this date and August 2, 2022, putting Ohio within the traditional statutory window for administering its next election.

The federal panel majority in *Gonidakis, et al. v. LaRose* stated clearly that for any new district plan to be utilized for an August 2, 2022 primary election – and to have the benefit of a full, 90-day election administration period – the Commission would need to adopt it by April 20, 2022. Their opinion is based on testimony from my staff that the 88 county boards of election would collectively need at least two weeks to reprogram their computer systems to new House and Senate districts before the full, 90-day primary election period would begin, which would also do the least amount of damage to current Ohio election law.

To administer an August 2 primary election, the boards must meet a series of statutory and administrative deadlines to have the first ballots, known as Uniformed and Overseas Citizens

Absentee Voting Act (“UOCAVA”) ballots, prepared no later than June 17, 2022 (46 days before the election). To achieve this, elections officials must meet the following statutory requirements:

- Certify candidates no later than **78 days before** the primary election. R.C. 3513.05.
- Hold protests against certified candidates no later than **74 days before** the primary election. R.C. 3513.05.
- Determine the validity or invalidity of the declaration of candidacy and petition. R.C. 3513.05.
- Receive write-in candidates declarations of intent for partisan offices no later than **72 days before** the primary election. R.C. 3513.041.
- Hold protests against write-in candidates no later than **67 days before** the primary election. R.C. 3513.041.
- The Secretary of State must certify to boards of elections the form of official ballots no later than **70 days before** the primary election. R.C. 3513.05.
- Board of elections of the most populous county in a multi-county district must certify names of all candidates to the other county boards of elections in the district no later than **70 days before** primary election. R.C. 3513.05.

Boards of elections need at least two weeks to reprogram voter registration and tabulation systems to accommodate a new map, which as of this date takes us to at least May 19. At that point, the boards would already be in violation of state law unless the General Assembly changes the statutory deadlines. Additionally, my office would not instruct the boards to deprogram Map 3 before May 28, risking that the new map could be invalidated with no immediate options to administer a primary election. This administrative delay also reduces or nearly eliminates the required process election officials must complete to conduct testing on all voting equipment, proof ballots, test ballots, recruit poll workers, and order absentee and Election Day ballots.

In summary:

- The last date a new map could have been ordered and implemented without altering current statutory deadlines that precede an August 2, 2022 primary election was April 20, 2022.
- The General Assembly has not set a new primary date, and its leaders have publicly stated they do not have the votes to pass emergency legislation to do so.
- All but two of Ohio’s 88 county boards of elections have fully programmed the third General Assembly district plan adopted by the Ohio Redistricting Commission.
- A majority of the federal panel considering *Gonidakis, et al. v. LaRose* recognized that Map 3 has “administrative advantages” of implementation that no other map produced by the Commission to date presents, including a largely completed candidate certification process that also would not require the revisiting of filing deadlines and residency provisions.

Therefore, Map 3 is the only viable option to effectively administer a primary election on August 2, 2022. If on May 28, 2022, the federal court orders that Ohio use Map 3 and sets the primary election date on August 2, 2022, my office will issue a directive to the boards of elections implementing that order and providing detailed instructions on the administration of a successful primary election.

Exhibit E

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2022		Reference
Apr. 05**	Absentee ballots for May 3 primary election must be ready for use (first day after close of voter registration)	R.C. 3509.01 S.B. 11
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
Apr. 11	Secretary of State and boards of elections must send notice to candidates required to file pre-primary campaign finance reports (10 days before the pre-primary campaign finance report deadline)	R.C. 3517.11
Apr. 13	Committees advocating or opposing issues on May 3 primary election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before primary election)	R.C. 3505.21
Apr. 19	Boards of elections must prepare precinct voter registration lists (14 days before primary election)	R.C. 3503.23
Apr. 21	Pre-primary election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before primary election) detailing contributions and expenditures through April 13, 2022 (20 days before primary election)	R.C. 3517.10
Apr. 22	Deadline for political parties, groups of candidates and recognized issue committees to file notice of observer appointments (11 days before primary election)	R.C. 3505.21
Apr. 23	Boards of elections must give public notice of May 3 primary election (10 days before primary election)	R.C. 3501.03
Apr. 24	Boards of elections must prepare and publish notices of the August 2 special election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before special election)	R.C. 3511.16
Apr. 25*	Certificate to fill vacancy on ballot caused by death of candidate whose name is on May 3 primary election ballot in more than one county must be filed by 4 p.m. (10 days before primary election)	R.C. 3513.30
Apr. 28	Certification to fill vacancy on ballot caused by death of candidate whose name is on May 3 primary ballot in only one county must be filed by 4 p.m. (five days before primary election)	R.C. 3513.30
Apr. 30	Applications for absentee ballots to be mailed for May 3 primary election must be received by boards of elections by noon (three days before primary election)	R.C. 3509.03, 08, 3511.02
May 02	Nominating petitions of independent candidates for offices for which a primary election may be held must be filed by 4 p.m. (one day before primary election)	R.C. 3513.257
	Amendments to observer appointments must be filed by 4 p.m. (day before primary election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the primary election)	R.C. 3501.29
May 03	Primary Election Day. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, 32
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
May 04	Local questions and issues for the August 2 special election must be certified or filed with the boards of elections by 4 p.m. (90 days before the special election)	R.C. 3501.01, 02
May 13	Absentee ballots returned by U.S. Mail must be postmarked no later than May 2 and received by boards of elections by this date to be counted (10 days after primary election)	R.C. 3509.05, 3511.11
May 23**	UOCAVA absentee ballots must be received by boards of elections by this date to be counted (20 days after primary election)	S.B. 11
May 24**	Boards of elections may begin official canvass of May 3 primary election ballots (21 days after primary election)	S.B. 11
May 25**	Boards of elections must begin official canvass of May 3 primary election ballots no later than this date (22 days after primary election)	S.B. 11
May 27**	Boards of elections must complete official canvass of May 3 primary election ballots no later than this date (24 days after primary election)	S.B. 11
May 31	Secretary of State and boards of elections must send notice to candidates required to file post-primary campaign finance reports (10 days before the post-primary campaign finance report deadline)	R.C. 3517.11
Jun. 03	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before special election)	R.C. 3501.27
Jun. 10	Post-primary election campaign finance reports must be filed by candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after primary election) detailing contributions and expenditures through June 3, 2022 (seven days before the report is filed)	R.C. 3517.10
Jun. 15	Boards of elections of most populous county of a district located in more than one county must transmit petitions of independent candidates to other boards of elections	R.C. 3513.262
Jun. 16	Last day for local option petitioners to send street listing to Division of Liquor Control (55 days before August 10 deadline for filing petitions for November 8 general election)	R.C. 4301.33, 4305.14
Jun. 17	UOCAVA absentee ballots for August 2 special election must be ready for use (46 days before special election)	R.C. 3511.04
	Boards of elections must update and publish notices of August 2 special election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before special election)	R.C. 3511.16
Jun. 21	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (six weeks before special election)	R.C. 3503.12
Jul. 05*	Deadline for voter registration for August 2 special election (30 days before special election)	R.C. 3503.19
	Last day for local opinion petitioners seeking to sell at a community facility to send street listing to Division of Liquor Control (30 days before August 2, 2022 deadline to file petitions for November 8, 2022 general election)	R.C. 4301.334
	Deadline to file corrections and challenges to precinct voter registration lists (30 days before special election)	R.C. 3503.24
Jul. 06	Non-UOCAVA absentee ballots for August 2 special election must be ready for use (first day after close of voter registration)	R.C. 3509.01
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
	Constitutional amendments or statutes proposed by initiative petitions to be submitted directly to the voters must be filed with Secretary of State (125 days before general election)	OH Const. II, §§1a-1b
Jul. 13	Committees advocating or opposing issues on August 2 special election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before special election)	R.C. 3505.21
Jul. 15	Boards of elections must certify independent candidate petitions by this date	R.C. 3513.262
Jul. 19	Boards of elections must prepare precinct voter registration lists for special election (14 days before special election)	R.C. 3503.23
	Secretary of State and boards of elections must send notice to candidates required to file semiannual campaign finance reports (10 days before the semiannual campaign finance report deadline)	R.C. 3517.11
Jul. 22	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before special election)	R.C. 3505.21
Jul. 23	Boards of elections must give public notice of August 2 special election (10 days before special election)	R.C. 3501.03
Jul. 29	Semiannual election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (last business day of July) detailing contributions and expenditures through June 30, 2022 (last day of June)	R.C. 3517.10
Jul. 30	Applications for absentee ballots to be mailed for August 2 special election must be received by noon (3 days before special election)	R.C. 3509.03, 08, 3511.02
Jul. 31	Boards of elections must prepare and publish notices of November 8 general election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before the general election)	R.C. 3511.16
Aug. 01*	Protests against independent candidates nominated by petition must be filed by 4 p.m.	R.C. 3513.262
	Amendments to observer appointments must be filed by 4 p.m. (day before special election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the special election)	R.C. 3501.29
Aug. 02	Special Election may be held. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, 32
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
Aug. 10	Constitutional amendments proposed by joint resolution of General Assembly must be filed with Secretary of State (90 days before general election)	OH Const. XVI, §1
	Nominating petitions of candidates in nonpartisan races must be filed by 4 p.m. (90 days before general election)	R.C. 1907.13, 3513.259, 3513.263
	Local questions and issues for November 8 general election, including local option petitions, must be certified to or filed with boards of elections by 4 p.m. (90 days before general election)	R.C. 731.28, 29, 3501.02, 4301.33, 331, 332, 333, 334, 4305.14
Aug. 12	Absentee ballots for August 2 special election returned by U.S. Mail must be postmarked no later than August 1 and received by boards of elections by this date to be counted (10 days after special election)	R.C. 3509.05, 3511.11
	UOCAVA absentee ballots for August 2 special election must be received by boards of elections by this date to be counted (10 days after special election)	R.C. 3511.11

*Note: In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended, pursuant to R.C. 1.14, to the next succeeding day when the appropriate office is open for regular business hours. The preceding dates reflect the extended deadline.

**Dates resulted from temporary law or Secretary of State Directive.

"UOCAVA" is an acronym for Uniformed & Overseas Citizens Absentee Voting Act to refer to those voters who are uniformed and/or overseas. "Non-UOCAVA" refers to voters who are not uniformed or overseas voters.

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2022		Reference
Aug. 13	Boards of elections may begin official canvass of August 2 special election ballots (11 days after special election)	R.C. 3505.32
Aug. 15*	Political party or independent candidate nominating committees must certify name of person to fill vacancy on November 8 general election ballot caused by withdrawal or disqualification of candidate by 4 p.m. (86 days before general election)	R.C. 3513.31
Aug. 17	Boards of elections must begin official canvass of August 2 special election ballots no later than this date (15 days after special election)	R.C. 3505.32
Aug. 22	Boards of elections must certify the validity and sufficiency of candidates' petitions in nonpartisan races (78 days before general election)	R.C. 3513.263
	Boards of elections must certify the validity and sufficiency of local option petitions (78 days before general election)	R.C. 4301.33, 331, 332, 333, 334, 4305.14
Aug. 23	Boards of elections must complete official canvass of August 2 special election ballots no later than this date (21 days after special election)	R.C. 3505.32
Aug. 26	Protests against candidates for nonpartisan office must be filed by this date (74 days before general election)	R.C. 3513.263
	Protests against local option petitions must be filed by 4 p.m. (74 days before general election)	R.C. 4301.33, 331, 332, 333, 334, 4305.14
Aug. 29*	Write-in candidates must file declarations of intent by 4 p.m. (72 days before general election)	R.C. 3513.041
Aug. 30	Secretary of State must certify to boards of elections the form of official ballots for November 8 general election (70 days before general election)	R.C. 3505.01
	Board of elections of most populous county of a multi-county district must certify names of all candidates to other boards of elections (70 days before general election)	R.C. 3505.01
Sep. 02	Protests against write-in candidates for general election must be filed by 4 p.m. (67 days before general election)	R.C. 3513.041
Sep. 09	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before general election)	R.C. 3501.27
Sep. 23	UOCAVA absentee ballots for November 8 general election must be ready for use (46 days before general election)	R.C. 3511.04
	Boards of elections must update and publish notices of November 8 general election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before general election)	R.C. 3511.16
Sep. 27	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (6 weeks before general election)	R.C. 3503.12
Oct. 11*	Deadline for voter registration for November 8 general election (30 days before general election)	R.C. 3503.19
	Deadline to file corrections and challenges to precinct voter registration lists (30 days before general election)	R.C. 3503.24
Oct. 12	Non-UOCAVA absentee ballots for November 8 general election must be ready for use (first day after close of voter registration)	R.C. 3509.01
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
Oct. 17	Secretary of State and boards of elections must send notice to candidates required to file pre-general campaign finance reports (10 days before the pre-general campaign finance report deadline)	R.C. 3517.11
Oct. 19	Committees advocating or opposing issues on November 8 general election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before general election)	R.C. 3505.21
Oct. 25	Boards of elections must prepare precinct voter registration lists for general election (14 days before general election)	R.C. 3503.23
Oct. 27	Pre-general election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before general election) detailing contributions and expenditures through October 19, 2022 (20 days before general election)	R.C. 3517.10
Oct. 28	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before general election)	R.C. 3505.21
Oct. 29	Boards of elections must give public notice of November 8 general election (10 days before general election)	R.C. 3501.03
	Certificate to fill vacancy on November 8 general election ballot caused by death of candidate nominated at primary election whose name is on ballot in more than one county (10 days before general election)	R.C. 3513.31
Nov. 03	Certificate to fill vacancy on November 8 general election ballot caused by death of independent or nonpartisan candidate prior to October 29 (10 days before general election) must be filed by 4 p.m. (five days before general election)	R.C. 3513.31
	Certificate to fill vacancy on November 8 general election ballot caused by death of candidate nominated at primary election whose name is on ballot in only one county must be filed by 4 p.m. (five days before general election)	R.C. 3513.31
Nov. 05	Applications for absentee ballots to be mailed for November 8 general election must be received by boards of elections by noon (three days before general election)	R.C. 3509.03, 3511.02
Nov. 07	Amendments to observer appointments must be filed by 4 p.m. (one day before general election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than one day before general election)	R.C. 3501.29
Nov. 08	General Election Day. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, 3509.08
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
Nov. 18	Absentee ballots returned by U.S. Mail must be postmarked no later than November 7 and received by boards of elections by this date to be counted (10 days after general election)	R.C. 3509.05, 3511.11
	UOCAVA absentee ballots must be received by boards of elections by this date to be counted (10 days after general election)	R.C. 3511.11
Nov. 19	Boards of elections may begin official canvass of November 8 general election ballots (11 days after general election)	R.C. 3505.32
Nov. 23	Boards of elections must begin official canvass of November 8 general election ballots no later than this date (15 days after general election)	R.C. 3505.32
Nov. 29	Boards of elections must complete official canvass of November 8 general election ballots no later than this date (21 days after general election)	R.C. 3505.32
Dec. 06	Secretary of State and boards of elections must send notice to candidates required to file post-general election campaign finance reports (10 days before the post-general campaign finance report deadline)	R.C. 3517.11
Dec. 08	Last day for certain local option petitioners to send street listings to Division of Liquor Control (55 days before February 1, 2023 petition filing deadline for May 2, 2023 primary/special election)	R.C. 4301.33, 4305.14
Dec. 16	Post-general election campaign finance reports must be filed by candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after general election) detailing contributions and expenditures through December 9, 2022 (the 7th day before the report is filed)	R.C. 3517.10
2023		Reference
Jan. 01	Applications for absentee ballots for all elections held in 2023 may be accepted (first day of the year)	R.C. 3509.03, 3511.02
Jan. 03*	Last day for local option petitioners contesting community facility to send street listings to Division of Liquor Control (30 days before February 1 petition filing deadline for May 2 primary/special election)	R.C. 4301.334
Recounts and Election Contests		
Application for a recount must be filed no later than 5 days after official results are declared.		R.C. 3515.02
A petition contesting an election must be filed in the appropriate court within 15 days after the official results are declared or, if a recount of the election is conducted, within 10 days after the official results of a recount are declared.		R.C. 3515.09

*Note: In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended, pursuant to R.C. 1.14, to the next succeeding day when the appropriate office is open for regular business hours. The preceding dates reflect the extended deadline.

**Dates resulted from temporary law or Secretary of State Directive.

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Exhibit A

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Ohio Redistricting Commission - 5-4-2022

<http://ohiochannel.org/video/ohio-redistricting-commission-5-4-2022>

Speaker Bob Cupp [00:00:00] A meeting of the Ohio Redistricting Commission will now come to order. I would note before we get into the roll call that we have some letters of appointment in your file and I'll just make note of them for the record. One from Senator Huffman, President of the Senate, appointing Senator Robert McColley in lieu of the Senate president's service on the commission. We have a second one from myself as speaker of the House, appointing Representative Jeff LaRe in lieu of my service on the commission. We have then a two letters, one from the President of the Senate and one from the speaker of the House, designating Jeff LaRe as the one of the co-chairs of the commission. So at this point, I would call upon the governor to administer the oath.

Gov. Mike DeWine [00:01:09] Please raise your right hand. Repeat after me. I , state your name.

Sen. Rob McColley [00:01:13] I, Rob McColley.

Rep. Jeff LaRe [00:01:13] I, Jeff LaRe.

Gov. Mike DeWine [00:01:13] Do solemnly swear.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:14] Do solemnly swear.

Gov. Mike DeWine [00:01:14] To support the Constitution of the United States.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:18] To support the Constitution of the United States.

Gov. Mike DeWine [00:01:22] The Constitution of the State of Ohio.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:23] The Constitution of the State of Ohio.

Gov. Mike DeWine [00:01:24] And to faithfully discharge the duties of the office.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:26] And faithfully discharge the duties of the office.

Gov. Mike DeWine [00:01:29] As a member of the Ohio Redistricting Commission.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:30] As a member of the Ohio Redistricting Commission.

Gov. Mike DeWine [00:01:31] On which I serve.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:32] On which I serve.

Gov. Mike DeWine [00:01:35] Pursuant to Article 11.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:39] Pursuant to Article 11.

Gov. Mike DeWine [00:01:39] Section 1 of the Ohio Constitution.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:39] Section 1 of the Ohio Constitution.

Gov. Mike DeWine [00:01:39] This I shall do as I shall answer unto God.

Sen. Rob McColley & Rep. Jeff LaRe [00:01:39] This I shall do as I shall answer unto God.

Gov. Mike DeWine [00:01:50] Congratulations.

Speaker Bob Cupp [00:01:50] Having been duly appointed and sworn in, I would now ask Representative LaRe, co-chair, to continue with presiding over the meeting today.
Co-Chair.

Co-Chair Rep. Jeff LaRe [00:02:35] Will the staff please call the roll.

Speaker 6 [00:02:38] Co-Chair, LaRe.

Co-Chair Rep. Jeff LaRe [00:02:40] Here.

Staff [00:02:41] Co-Chair Sykes.

Co-Chair Sen. Vernon Sykes [00:02:43] Here.

Staff [00:02:44] Governor DeWine.

Gov. Mike DeWine [00:02:46] Here.

Staff [00:02:46] Auditor Faber.

Auditor Keith Faber [00:02:46] Present.

Staff [00:02:46] Secretary LaRose.

Secretary of State Frank LaRose [00:02:48] Here.

Staff [00:02:48] Senator McColley.

Sen. Rob McColley [00:02:51] Here.

Staff [00:02:51] Leader Russo.

House Minority Leader Allison Russo [00:02:51] Here.

Co-Chair Rep. Jeff LaRe [00:02:55] With a quorum present will meet as a full committee. Members can find the minutes from the last meeting on March 28th in their folders. Do I have a motion to accept the minutes?

Co-Chair Sen. Vernon Sykes [00:03:04] So moved.

Co-Chair Rep. Jeff LaRe [00:03:06] Are there any objection or amendments to the minutes? Hearing none. The minutes are accepted. At this time, we'll move the discussion

to the allocation of funds to further work, for the further work of the Commission.
Representative Russo.

House Minority Leader Allison Russo [00:03:24] Thank you. Thank you. Co-Chair. Welcome to this illustrious committee. We are glad to have you here. I make a motion to adopt a resolution asking the legislative task force to approve the funds requested by the Democratic commissioners, specifically the allocation of funds that I have requested specifically. Specifically, I move that the Commission or I urge or specifically request of the Commission urge the Legislative Task Force on redistricting, of which I am co-chair, to approve funding for the caucuses so that the Democratic members of the Commission have the resources and professional expertise needed to perform their constitutional duties. As a reminder, we rely on a consultant to be able to help us with the mapmaking process. We also have a licensure software licensure as well as the licensure or the software support that need to be renewed. The last allocation of which we have not spent all of the allocation, but it expired on March 4th. So we do need to at least extend that so that we can continue to have the support that we need to continue with this process. And I would hope that this commission would be supportive of all of our members having the resources necessary to do our constitutional duties.

Co-Chair Sen. Vernon Sykes [00:04:59] I second the motion.

Co-Chair Rep. Jeff LaRe [00:05:03] Representative McColley or Senator McColley.

Sen. Rob McColley [00:05:06] Thank you, Chairman. Those of you who are on the commission probably know that Leader Russo is one of the co-chairs of the Legislative Task Force on Redistricting, and I am the other co-chair. I did receive a letter from Leader Russo regarding her funding request, and I believe all of you have also received a letter that was drafted by Speaker Cupp subsequent to that request, and I sent a letter back to her that I believe you also have all received as well, detailing some concerns that we have with some of the spending out of the allocations that have been made to the Democratic Caucus. And I really am just looking for an explanation, primarily just in our effort to exercise due diligence and transparency with some of these expenditures. And so primarily just from following this process, I think anybody would understand that Mr. Glassburn has been the Democrat map maker since the beginning of this process, or at least the primary Democrat map maker. And in reviewing some of the expenditures, it has an interesting pattern of payments being made that from first glance can't really be explained very well. It appears there were payments made September through December of what appears to be his his normal monthly retainer, his normal monthly fee of anywhere from \$13,000 to \$16,000. And then there were two payments in the month of February, and then a month later, in the month of March, that totaled \$58,500 and \$55,000. And the March payment was actually accompanied by a payment that seemed to be customary with what the monthly fees would appear to be, that being \$14,000 for a total of \$182,500 being spent. The Speaker had mentioned that in our duty to to exercise discretion over these funds, that it may not be a bad idea to to inquire as to the irregularity of those two payments that seem out of the ordinary course of business, and then to inquire as well about additional payments that were made totaling \$119,000 from August 20, August 20th, two payments made on October 20th and a payment made on December 2nd to Haystack DNA, which is a company out of Washington, D.C., that, best I can tell, focuses primarily on data analysis for political issue messaging, messaging and fundraising, and has had some involvement with redistricting efforts across the state, those payments totaling \$119,000. And so trying to get a little bit of an explanation what those what those funding numbers were, what that money went for, don't really have an issue with the monthly, what

appears to be the monthly payments to Mr. Glassburn. But primarily it's those two payments that seem to be out of the ordinary that I'm a little bit curious about.

Co-Chair Rep. Jeff LaRe [00:08:21] Representative Russo.

House Minority Leader Allison Russo [00:08:22] Thank you, co-chair. Thank you, Senator. Happy to answer some of those questions. So first, just to level set everyone, the Democratic caucus, we have been allocated a total of \$500,000 since this process began, of which we have spent \$354,000. Again, you know, we had originally requested that that allocation expire later than the date that I believe was changed by Senator McColley's office in some of our back and forth. And it was changed to expire on March 4th. So in total, the money that we originally allocated and approved has not been spent. In fact, we've got about \$145,000 left. I will also remind folks that the Democratic caucus and the money that we are spending to support our work on this commission goes through the task force. Unlike some of our other colleagues on the commission, where some of the consulting fees, for example, for outside mapmakers actually comes through some of the legal expenses. And that, of course, we can't get into detail. And I think there's been about \$600,000 of ours spent there, but we haven't been able to get details about how that has broken out. Also, as a reminder, we do not, at least for the House Democratic Caucus because of we have limited staff and limited payment to our staff. We are not able to reassign staff to this task and compensate them accordingly. So we have to go to these outside consultants. But specifically, your questions about Mr. Glassburn. As a reminder, Mr. Glassburn, at the beginning of this process, was only in contract with the Senate Democrats, not with the Senate House, the Senate or sorry, the House Democrats, the House Democrats. Originally, we had a consulting contract with Haystack. They were the mapmaker. This is before I came on the commission. Their work stopped, I believe, in December. So we did not have any other relationship with them, contract relationship with them after December. And that was before my time coming on the task force beginning in January when I transitioned onto the task force. We also thought that it was more efficient to have Mr. Glassburn working for both of the caucuses, and as a result, his contract amount was higher to reflect that. So the amounts that you see in February and March, and by the way, he had a contract amount that was approved, a total contract amount that was approved by the task force and the invoicing goes through LSC, which both the Senate president and the speaker chair that and go back and forth chairing that. So he submitted those invoices as he was legally required to do. There were no questions raised about the invoices, and they were paid. In the months of February and March. The invoices submitted, I will remind you, not only was he working for two caucuses at the time and two commissioners, but we had three court decisions that came about during that time period. So we were working on both two sets of state legislative maps, as well as an additional set of a congressional map, which is very different certainly than some of the previous months when he was consulting. So he simply invoiced. Again, his contract was a set amount that we gave to him and it was just simply a matter of how he broke up the invoicing that he did for those two months. But I will remind you, he was also doing not only working for two different commissioners, but also working during three different decisions as opposed to in the fall. That was only one decision or actually that was pretty decision about two different maps.

Co-Chair Rep. Jeff LaRe [00:12:24] Senator McColley.

Sen. Rob McColley [00:12:26] Thank you, Chairman. Thank you for the explanation, Leader Russo. To be clear for everybody, the individual invoices are not necessarily approved by the co-chairs of the task force. Generally, there's a lump sum that's been

allocated to the to each of the individual caucuses, and then it's within their discretion to approve the invoices individually. So these invoices would have been approved to have been paid by the Democrat co-chair of the task force. And I guess I understand, I guess, some of the reasoning behind that. However, it still doesn't, I guess, justify the the enormous departure from what would have been the ordinary and customary order of business with Mr. Glassburn to go from 16,000 in September, 13,000 for October, presumably 13,000 for November, 13,000 for December. And then all of a sudden, February and March, \$58,500 and \$55,000, then to return back to 14,000, despite the fact that, as you had said, he was working for two caucuses now. And I guess that's that was part of the reason why I requested in my return letter to you that there be an accounting of whatever costs were presented to justify that large departure in the order that would have, I think, raised many anybody's eyebrows if they were being objective when they looked at the pattern of payments.

House Minority Leader Allison Russo [00:14:07] Sure. So, you know, again, this is what mapmakers cost. And, you know, I appreciate us wanting to be good stewards of the taxpayer dollars, but this invoice, as required coming through the legislative task force, redistricting task force was submitted number one, the contract was approved. It was submitted through LSC. If there were any concerns about the contract, they can raise that. We allocated the dollars. You know, if I would love to have a full accounting, frankly, of what the Republican commissioners have spent on mapmakers, because we can't see those dollars. [applause] They come through.

Co-Chair Rep. Jeff LaRe [00:14:52] Let's maintain decorum, please.

House Minority Leader Allison Russo [00:14:54] Those come through legal fees that we don't have a detailed accounting of. So if you know, we're going to go back and forth again, if this is part of us not having the resources to be able to complete our constitutional duty, and this is going to be, you know, the games that we're going to play with us, then I would ask that we have the same level of scrutiny and detail of what has been spent on outside consulting mapmakers from other commissioners. Again, you know, there has been nothing raised about the contract. Mr. Glassburn was working for two commissioners under three decisions during this time period. Everyone who was up here, including staff, knows that there was an enormous amount of time and hours spent, particularly during the month of February, end of January, February and beginning of March. Given the number of decisions and the number of rounds of mapmaking that we were undergoing during that time.

Co-Chair Rep. Jeff LaRe [00:15:58] Senator McColley.

Sen. Rob McColley [00:16:00] I guess to start there, all of our mapmakers are employees of our caucus, so there was no additional money spent on them. So it's still, in my mind, doesn't get to the crux of the issue. The fact remains that. Looking at these payments, it's easy to see that his ordinary monthly retainer or fee, if you will, is anywhere from \$13,000 to \$16,000. And all of a sudden, in February, that quadrupled and then remained high for the for the first payment of the month of March. And then he was given another payment during the month of March of \$14,000. And so I realize there may have been a lot of work, and I'm not disputing that Mr. Glassburn has put an awful lot of hours into into this process. And, in fact, I don't have any dispute with his normal monthly retainer or fees or however the contract is structured. I've never seen the contract. And so the question remains, what is the justification for \$58,500, which is more than each of the previous four payments made to him combined that was paid to him in the month of February and then an

additional payment of \$55,000 one month later. So in the course of two months, just during February and March, there were payments made to him of \$127,000. You count both March payments.

House Minority Leader Allison Russo [00:17:33] So.

Co-Chair Rep. Jeff LaRe [00:17:34] Leader Russo.

House Minority Leader Allison Russo [00:17:35] Yes. Thank you, Senator. As a reminder, these are not monthly expenses. He has a set contract amount and the allocation was set to expire on March 4th. So it's not as if he could continue to do the \$13,000 every month if he was going to submit the invoice for the work. Essentially, he had to do it from January to March 4th because that's when the allocation expired. I also want to go back and just correct that you only use staff mapmakers. We know through public records request that in fact, Mr. Clark Benson, who's a DC mapping consultant, was paid through outside counsel. Nelson Mullins, We know that John Morgan, who is also a DC mapping consultant, was paid through outside counsel. Now Nelson Mullins. So this assertion that only Democrats on this commission are using outside mapmakers is just frankly incorrect. Also, I will say that again, the staff and the the Republican commissioners staff mapmaking staff who have been assigned to work on this were also given significant raises prior to this process totaling \$80,000. That same payment adjustment was not afforded to my staff. And so, you know, at the end of the day, frankly, looking at Mr. Glassburns, billings, that seems like a deal to me. And that is, you know, especially when we consider the \$9 million that's already been allocated for a primary that was conducted yesterday, that was confusing. And the \$25 million on top of that to conduct a second primary because this commission has not done its job. So if we want to start talking about-- [applause]

Co-Chair Rep. Jeff LaRe [00:19:18] Folks, please. Maintain decorum.

House Minority Leader Allison Russo [00:19:20] prudent use of taxpayer dollars, I think we're focusing on the wrong thing.

Co-Chair Rep. Jeff LaRe [00:19:33] Senator McColley.

Sen. Rob McColley [00:19:34] Thank you. Well, it's it's to me, I think we're, it's right for us to focus on this. And I think you admitted that even even earlier when we appreciate the the oversight we were trying to exercise over this, I just don't see and I've not heard in your explanation why something would quadruple and then stay quadrupled for yet another month. And keep in mind another thing. You keep bringing up these outside consultants. None of them participated in the map drawing process. Those people were were hired, I believe, by our lawyers. Right. Potentially to aid them. And in the litigation, they were not participating in map drawing at any point in time. And I think the record also proves that to be clear.

Co-Chair Rep. Jeff LaRe [00:20:23] Representative Russo.

Co-Chair Rep. Jeff LaRe [00:20:24] I believe those attorneys were advising members of this commission outside of the litigation, throughout the mapmaking process. Again, you know, you say I'm not explaining the invoiced amounts. I did explain the invoicing amounts. He was under contract to provide these services from January to March 4th and he simply invoiced over that time period his total contract amount totaling \$127,000 and

\$127,500. Again, these are not monthly fees. He had a set contract amount that was approved, approved by LSC, approved by us, and he simply invoiced over the period of time before the allocation expired, which was on March 4th. We had actually originally requested that it expire in mid-April, and I believe your office changed the date on that. So that is why we've got the the invoicing amounts over that compressed period of time. He just had a shorter period of time to submit invoices, but also his work was entirely justified. He was here doing the work and advising two different commissioners and working through three different decisions at the time.

Co-Chair Rep. Jeff LaRe [00:21:39] Senator McColley.

Sen. Rob McColley [00:21:40] Mr. Chairman, thank you. Um, haystack DNA. And I think I might know the answer to this, but can you, can you explain a little bit what their involvement was and the four payments made to them from August to December of last year totaling \$119,000?

House Minority Leader Allison Russo [00:21:59] Sure. So, Haystack. Again, this preceded my time on this commission. They were contracted with the House Democrats specifically and as mapmaking consultants and to develop maps for us to do the work here on the commission. And they had a set contract amount as well and invoiced over the period of time that they were under contract with us. That contract had ended before I came on this commission and before I was on the task force. But the decision was made and I will take full responsibility for this. At the beginning of January, when I assumed the position on this commission that I thought that their services were no longer needed by our caucus, and it was more efficient to have Mr. Glassburn.

Co-Chair Rep. Jeff LaRe [00:22:50] Senator McCauley.

Sen. Rob McColley [00:22:52] Did did haystack DNA ever actually develop any maps that were presented to the commission or or otherwise?

House Minority Leader Allison Russo [00:23:00] My understanding is that they developed draft maps for us to consider and for commission. My predecessor to consider to present to this commission is my understanding.

Co-Chair Rep. Jeff LaRe [00:23:17] Mr. Chairman.

House Minority Leader Allison Russo [00:23:18] Senator McColley.

Co-Chair Rep. Jeff LaRe [00:23:18] Did. Well, what was the reason you decided to eliminate their contract?

House Minority Leader Allison Russo [00:23:27] Well, first of all, I'm not being deposed, but primarily purpose, frankly, my decisions, Mr. Glassburn, I think as a as a much better consultant and had more knowledge about the maps. And I thought it was more efficient.

House Minority Leader Allison Russo [00:23:42] Senator McColley.

Co-Chair Rep. Jeff LaRe [00:23:43] Okay. I was just curious because. Thank you, Mr. Chairman. I was just curious because it's it's my understanding that Mr. Glassburn held the same opinion you did, given that in his in his deposition, he said Haystack had very limited value towards any of the final products that were fairness to the commission. So, I mean,

I'd open it up to discussion. I also pointed out in this the response letter to Leader Russo that I think before we allocated more money and before we went down that path, that I wished that the Commission would express its wishes regarding its next steps and what we should be doing. And in the funding allocations, given that this is solely within the Commission at this point, and I would like to be deferential to what's going to happen in that regard.

House Minority Leader Allison Russo [00:24:38] Further discussion. Just for clarification on your motion, are you? Asking the task force for a reduced amount from the 200,000?

House Minority Leader Allison Russo [00:24:53] Certainly that is up to discussion commission. I would just like this commission, the support of this commission for us to have allocation of funds to our caucus so that we can conduct our work as commissioners and perform our constitutional duties, which is to produce a map that is constitutionally compliant and meets the requirements of the court order that we are currently under. That I will remind everyone on this commission has a deadline of Friday at 9:00, and here we are, less than 48 hours before arguing over this when this should have been done two or two weeks ago.

Co-Chair Rep. Jeff LaRe [00:25:38] Any further discussion? All right. Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:25:54] Mr. Co-Chair, ladies and gentlemen, an explanation was asked for, and I think Leader Russo has provided a detailed explanation historically and budgetary wise. And the question still remains before us making sure that we allocate resources so that we all can participate in map drawing process. And I would hope that you would all consider that.

Co-Chair Rep. Jeff LaRe [00:26:27] Thank you, Senator. Just for clarification for the record. Representative Russo, would you mind repeating your motion?

House Minority Leader Allison Russo [00:26:34] Yes. Thank you, Mr. Co-Chair. So I move that the commission passed a resolution urging the legislative task force on redistricting to approve funding for the caucuses so that Democratic members of the Commission have the resources and professional expertise needed to perform their constitutional duties.

Co-Chair Rep. Jeff LaRe [00:26:52] Senator McColley.

House Minority Leader Allison Russo [00:26:53] Um, just somewhat of a point of order. I don't know that a resolution is necessary given that the decision is up to Leader Russo and I being that we're both here. If the commission generally indicates that they're in favor of authorizing this for the continued expenditures, we can execute this today. So that's, I think, mainly what we're asking for. I don't know that we need an official vote. And so if there's no objection, we can we can do that.

House Minority Leader Allison Russo [00:27:25] Mr. Co-chair.

Co-Chair Rep. Jeff LaRe [00:27:27] Representative Russo.

House Minority Leader Allison Russo [00:27:27] So maybe if I'm hearing the senator correctly that you were expressing approval for the allocation, and we can expect that to come in short order.

Sen. Rob McColley [00:27:43] Yes. I mean, mainly in the letter. I wasn't expecting it. Sorry, Mr. Chairman. In the letter I wasn't expecting to have to bring it before the commission and talk about all of this. I was asking for some of these receipts in accounting in the letter I sent to you. But here we are having this conversation nonetheless. And so if the commission feels it appropriate, then we will we will sign that letter today. That's what I'm saying.

Co-Chair Rep. Jeff LaRe [00:28:13] Representative Russo.

House Minority Leader Allison Russo [00:28:14] Yes, just to clarify, I don't know if we need a vote, but for the commission on this resolution, I'm happy and I'm happy to withdraw the motion. But I also don't hear objections from any other members of the commission.

Co-Chair Rep. Jeff LaRe [00:28:32] Please.

Sen. Rob McColley [00:28:33] Mr. Chairman, I would say at some point in the future, we should be and I am find opening up the Republican caucus books. I mean, frankly, all of this is a public record at this point anyway. And so I am find opening up the the Republican caucus books, there's nothing in there that I, I think would be any surprise to anybody. And so what I would like to see, regardless of whether we approve this today, is still documentations and contracts and and things of that nature in the actual invoices. And maybe I can get that from LSC as to how this was actually structured because while while we were going to approve this, the payments still to me without reviewing that contract still seem highly irregular. And so, I mean, it could be something that we look into further down the road regardless of whether we allocate this future payment.

Co-Chair Rep. Jeff LaRe [00:29:31] Hearing no objection. Do you want to withdraw your motion?

House Minority Leader Allison Russo [00:29:36] Thank you, Mr. Co-chair. If there is no objection and we can expect the approval today in short order, then yes, I'm fine to withdraw this motion.

House Minority Leader Allison Russo [00:29:59] Okay. So at this time, we'll move the discussion. Regarding independent mapmaker drawers. Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:30:09] Thank you, Mr. Chairman. I would move that the commission engage the independent map draws to perform a review of their previous work product, making necessary changes to and entertaining suggested amendments by the commissioners.

Co-Chair Rep. Jeff LaRe [00:30:27] Discussion.

House Minority Leader Allison Russo [00:30:30] Second.

Co-Chair Rep. Jeff LaRe [00:30:31] Senator McColley.

Sen. Rob McColley [00:30:33] If I might make.

Co-Chair Rep. Jeff LaRe [00:30:35] Well, don't know yet.

Co-Chair Sen. Vernon Sykes [00:30:38] Thank you. The co-chair of this commission and the people of the state have really invested a lot of work in and funds in the work product of the independent map drawers. In our last meeting, we were very close to having it conclude and being resolved to a position to be more productive for the for the Commission. And I'm hopeful that we can keep that investment and move forward from the from the actions and the map drawing that's already taken place by the independent map drawers. Thank you.

Co-Chair Rep. Jeff LaRe [00:31:22] Senator McColley.

Sen. Rob McColley [00:31:25] Thank you, Mr. Co-Chair. Having observed this this process, and I'm sure like many of the people in the room watching way more of the livestream than than I probably should have and way more live stream than my wife preferred that I would have watched. Several things became apparent to me. Number one is that while Drs. Johnson and McDonald put in a lot of hours and a good effort, one thing that became apparent to me is that we have people already at our disposal who are eminently qualified to conduct the business of the commission and to draw the maps of the Commission as the Commission sees fit while still being in compliance with the Supreme Court order. Let's not forget, in the most recent Supreme Court order, it reiterated the fact that it was a suggestion, not a requirement, and even stated that specifically that it could not require us to engage independent mapmakers. I personally, with as much scrutiny as he may have been under throughout this process or any of these mapmakers may have been under throughout this process, I think they are the most qualified in the entire country to be drawing these maps. And so I would oppose a motion to engage the independent mapmakers again going forward.

Co-Chair Rep. Jeff LaRe [00:32:56] Further discussion. Governor DeWine.

Gov. Mike DeWine [00:33:00] Chairman. Thank you. To try to put this in proper context. I think it would be good to hear from the Secretary of State in regard to the practical realities that we are facing. We all have seen his letter, but I would like for him to explain what's doable and what is not doable from his perspective because. The practicality of this is very important. I think before making any decision about independent mapmakers or anything else, I think we have to understand exactly where where we are at this point. So if the chair would be willing to do that and if the secretary would be willing to do that, I think this would be an appropriate, appropriate time.

Co-Chair Rep. Jeff LaRe [00:33:52] Secretary.

Secretary of State Frank LaRose [00:33:53] Yeah, happy to. And thanks. Co-Chair Thanks, Governor. I mean, the fact is, yesterday, Ohio's elections officials were able to accomplish something that's nothing short of miraculous. And it's because of the grit and the patriotism and the determination of these bipartisan teams that all of our boards of elections that they did this. Yesterday's election was a successful election. Certainly from the public standpoint, in most parts of the state, it ran smoothly, but there were some real challenges and they were able to overcome those challenges again, because we build redundancies in that we look for any time, there's a single point of failure and then we put backup plans in place. Unfortunately, we had to implement those backup plans in several counties defaulting to paper poll books instead of electronic poll books and all kinds of other things that again, the general public didn't really see much. But that happened because we required them to do 100 days worth of work in 45 days. That resulted in

rushed logic and accuracy testing, which led to technological failures. It resulted in rushed election night reporting preparation, which caused delays. And if we look sleepy, anybody that was involved in the election was working until about 3:00 in the morning over at the secretary of state's office and at 88 County Board of Elections because of those delays related to election night reporting. And also as a result, many of you may have noticed that we were not able to report the congressional results on a statewide basis. Those had to be done on a county by county basis. Those rushes that we had to conduct over the last few months also resulted in trouble with ballot printing led to the need to remake some ballots. There were misprints with little timing marks and things like that that go wrong when the timing when the time is not allowed for all the testing. One of the other challenges that we have faced and will continue to face is just staff burnout. And this is not something that can just be swept aside or overlooked. I we but I, as the chief elections officer, have asked a lot of our elections officials. They are, as we speak, working on the next three and a half, four weeks to conclude that may election. The work of running an election certainly doesn't end on Election Day. They'll be working through the end of May to conclude yesterday's election. And we're having people that are saying, you know what, I don't know if I want to do this work and considering resigning. And that means that we have a loss of institutional knowledge and that kind of thing. PEO recruitment, recruiting poll workers has become challenging, although we had adequate numbers yesterday and we will have adequate numbers for an August 2nd election. But but that takes a lot as well. So, Governor, if I if I may, I'd like to go through the actual timeline that we're talking about and why. My office told the federal court that April 20th was the date that we needed finality. That was not arbitrary. For that matter, the August 2nd date, which is the really the only logical date to conduct a second primary, that is not arbitrary either. It's important to note that today is 90 days until August 2nd. Ohio's elections are normally administered on a 90 day calendar. Again, that's not by chance that that August 2nd date happens to be 90 days after today. 90 days is what it takes to prepare for and run an election in regular order to avoid some of the errors and challenges that we faced yesterday. So 90 days from today is August 2nd. The boards of elections need two weeks prior to that to program their systems with new maps. If there were to have been a new map by April 20th, they could have had it programed today so that they can begin the preparation for August 2nd while simultaneously still wrapping up the May election, which happened yesterday, backtracking from August 2nd to 90 days. It brings us to today and then two weeks back brings us to April 20th. That's why we set that date as of today. Of course, as I said, the boards are still working to conduct the May 3rd election. We have another 20 days for overseas military ballots to arrive. We have another ten days for for normal, normal absentee ballots to continue arriving. And then the official canvass and the post-election audit all still needs to be conducted over the next four weeks. So that's looking back. Looking forward, according to our 90 day election calendar, we would need to begin validating candidate if there was a new map passed, we would need to begin validating candidate petitions on May 16th. The law requires 78 days before a primary election, so that would have to happen on May 16th, of course, unless the Legislature were to pass emergency legislation to change that. Protest to those petitions would need to be filed by May 20th. That, again, is set in the law at 74 days before an election. We would need to certify the official form of the ballot by May 24th, required to be 70 days before an election. The first ballots for that August 2nd election would need to be in the mail on June 17th, folks. That's five weeks from now, just a little over five weeks from now for those overseas military ballots to start going out on June 17th. So let's say we pass a map tomorrow. Will it be challenged? I think that that's certainly a possibility, given the history of this process and all of the litigation from all of these special interest groups that like to file lawsuits about these things. So if it was challenged, there would be a week of time that the court would allow the challengers to to make their arguments. Then

the court has historically taken three weeks to consider those arguments. Three weeks from now, obviously takes us to within just a week and a half of when we'd actually have to send out overseas military ballots. So let's suppose let's just suppose for a minute that the court didn't strike it down. Let's suppose that we passed a map tomorrow and the court didn't strike it down. The two weeks then would need to be allowed for the boards to program those maps into their systems. And now that's taking us six weeks out from today. That six weeks takes us well past all of those statutory deadlines that are in the law and certainly past the beginning of sending out overseas and military ballots. This is why we said April 20th is not arbitrary. This stuff really matters and it has real results for Ohio voters and Ohio's elections officials. So let's talk about emergency legislation. Any map adopted at this point, any map, even a slight variation of another map, any new map adopted by this commission would certainly require the General Assembly to pass emergency legislation. That means bipartisan votes. That means supermajority votes to pass that emergency legislation. For me, my vote on this commission is both as a member of this commission, but also as Ohio's chief elections officer. I cannot separate those two roles. It would be irresponsible for me, as Ohio's chief elections officer, to even consider a new map unless the legislative leaders and it's unfortunate, but we don't the legislative leaders are now not part of this commission unless they could assure me that they can get that they could get that supermajority vote to pass a piece of legislation to allow us to adjust those timelines. I would need that assurance before I could even consider voting on a new map. I believe that any new map that could be adopted here, you know, must demonstrate that before we can pass any new map, we have to demonstrate that we could get that supermajority vote. So, again, revisiting this candidate filing question with 30 days of residency, that's a9c requirement in the Constitution that would be triggered by any new map as well. That brings up a whole nother set of questions. So again, unless the General Assembly is planning on calling their members into session tomorrow to pass this emergency legislation, I can't see any way that we can pass a new map. Our elections officials pulled off something miraculous last night, but I don't want to ask them to do that again. And so I'm not really willing to compromise the integrity of our elections by rushing through a new map at this point. Our state motto is, With God, all things are possible. So I remain open to conversation about this, but that's certainly where I am on this matter as far as the timing goes.

Co-Chair Rep. Jeff LaRe [00:42:14] Thank you, Secretary. Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:42:17] Thank your chair. Governor DeWine and Secretary LaRose have really expanded the question that I propose. I propose that we continue to use Independent map drawers and they've expanded it to whether or not we should even consider any other map other than map three. And I understand the administrate the election calendar and the administration administrative procedures that need to be adhered to. But if we were so concerned about that time structure, why would we squander the 20 days of 22 days that the court has allotted us?

Co-Chair Rep. Jeff LaRe [00:43:08] Folks. Just out of respect for those listening online, let's let's stop with the clapping.

Co-Chair Sen. Vernon Sykes [00:43:16] So the time crunch is legitimate, but we have the ability to make decisions and we have it's only been the reluctance of the majority to approve the constitutional map that caused us to be in a place of where we are right now today. And all we need to do is to pass the constitutional map. It will be accepted by the court and we can move forward. So I think that we should be engaging. The independent map drawers, back to the original question that's on the floor now.

Co-Chair Rep. Jeff LaRe [00:43:54] Represented Russo.

House Minority Leader Allison Russo [00:43:58] I thank you, co-chair. You know, again, I agree with co-chair Sykes in his assessment of the situation in that we've had 22 days up until this point to avoid where we are now. So this is a problem of our own creation. And I am of the opinion, yes. That we can do things that are hard when there is a will to do it. And the other thing that I would note is that the federal court has given us until May 28, none of these procedures can start until May 28th because the court has given us and the federal court has given us until May 28th. So, you know, frankly, the third map is not set in place, even if you assume that it is so, it is not. So I don't see how we avoid, you know, some of these challenges. Either way, we go with this. But to me, whether people like it or not on this commission, my fellow commissioners, like it or not, we are under a state Supreme Court order to redo these maps. That is the order that we are under. And that is the task before us. And it is unfortunate that we have wasted all of this time getting to this point. And we are now less than 48 hours away from when the deadline is. But again, I believe we can do hard things. So I think that we need to do all that we can to meet those requirements to do right by the voters of Ohio. Because, frankly, any any election conducted on maps that have been thrown out by our state Supreme Court as unconstitutional, that's not a fair election. That's not a legitimate election in my opinion.

Co-Chair Rep. Jeff LaRe [00:45:57] Secretary LaRose do you want to respond to the status of the third map?

Secretary of State Frank LaRose [00:46:02] Yeah, I guess just to say that there's a reason why the three judge panel in their wisdom pointed out that the most reasonable course of action, if there is no other maps passed by the 28th of May, is to use the third map. That map is already programmed at our boards of elections. Back in February, when it was passed, I ordered the boards to begin preparation for the May 3rd election with that map. It is programmed and it's ready to go. The you know, the time period has run since it's been enacted. That would have allowed candidates to move if they if that's what they wish to do. And so, you know, it's really the logical choice that the court made was to say that that third map, if there is no other action by this commission, is the best course forward.

Co-Chair Rep. Jeff LaRe [00:46:54] Representative Russo.

Co-Chair Rep. Jeff LaRe [00:46:55] I thank you, Mr. Co-Chair and Secretary LaRose. My understanding from the testimony that was presented to the Federal Court is that not all boards of elections have actually programmed that third set of map. I think there were eight county boards of elections that had not completed that process. You know, I would say that certainly in our larger counties that have over 50% of the population, if some of those have not started this process or at least have not completed it, it doesn't matter whether we're talking about the third map or another map that this commission completes, it's going to be work that they will have to do, because we've got most of our counties in the state have one legislative district, one Senate district, maybe two, and the bulk of the work will fall on those larger counties. And my understanding is it is many of those larger counties who haven't completed this programming of the maps to begin with. So I don't really see where the the difference in left that has to be done by the county boards of elections is going to be significantly different.

Gov. Mike DeWine [00:48:07] Mr. Chairman.

Co-Chair Rep. Jeff LaRe [00:48:09] Please.

Gov. Mike DeWine [00:48:11] Chairman besides the Supreme court timeline of this Friday, the Ohio Supreme Court timeline. And in addition to that, and also in addition to the problems that have been outlined by the secretary of state. We also have another problem, and at least from my reading of what was going on with the independent mapmakers, I don't think it's simply a question of even if you could, calling them in here, having them come in immediately and think that they can come up with a map that fits the Constitution and also fits the four Ohio Supreme Court decisions. Anybody who watched that in real time and watched what they had to do and I do not blame them at all. I don't blame the court. I don't blame anybody. But the reality is, when they were going through that process, it became abundantly clear you can't hit all those marks. You can't hit all of them. And that is the real problem. The other problem that we we are up against. You know, we start off with the Constitution on proportionality. The court interpreted that in one of their opinions. That's fine. The court added the required of symmetry. That's fine. We accept whatever the court tells us. But those those two were added. But then when you go through when you watched the independent mapmakers go through, you know, they were not able to deal with to get all these things in here and avoid partisan favoritism. Because what we saw them do every single time when they had a choice, they felt based on these other two factors I just mentioned that the court was requiring them to favor the Democrats every single time they had to pick up, they had to pick up those to get those number. I'm not blaming anybody, but that's the way that's the way it turned. It turned out. The other thing that was not part not they were not able to do it was compactness. Compactness. You know, went out, went out the window. You know, they they basically said that they were not able to do the quotas. We had to blow through compactness. They had to blow through compactness to to reach these other things that the Ohio Supreme Court had said. And finally, one of the biggest selling points for the public, I think, for everybody when this constitutional amendment was passed, was that we would have more competitive districts, not fewer competitive districts. And yet the practical reality, again, no one's fault is just the way it worked out. The practical reality, when the independent mapmakers were doing this, they were looking, frankly, not to create more competitive districts, but they had to create fewer competitive districts. So it is we are we have a big, big problem. And, you know, look, I think that we have an obligation. I have said this consistently at every every stage of this, we have an obligation to try to come up with a map. We have an obligation to try to do that. I, I would think that's what we should do. But we have we have a Friday deadline, so we can't get the independent mapmakers. This goes back to the senators motion on the appointing the independent mapmakers. You know, we have people here, both parties who are here who can work on maps. You know, I don't think there's any choice other than to tell them to go work on maps and try to take the third map and try to improve that map because of the problems that are outlined by Secretary LaRose. It's not a good choice. I don't know if we can do it or not. It was look like it was demonstrated the other day that we can't hit all these march. But I think we have a legal obligation, according to what the court has said, to try to hit those marks. I don't think we have any other choice but to go that route, considering what the secretary of state has said. Considering what the Ohio Supreme Court has said on the date. And considering what the practicality is of what we watched in real time when the independent mapmakers were trying to do it. So it's a it's a long explanation. But for Sen. Sykes, I think it does pertain to whether we can get higher independent mapmakers and get them in here in time to do this without any kind of assurance, frankly, that they can do it because they didn't look like they were able to do it through no fault of their own the other day.

Co-Chair Rep. Jeff LaRe [00:53:34] Thank you, Governor. And just for my own clarification, if I understood the Secretary, correct. And even if we were able to get these independent mapmakers in tomorrow, they drafted a map that you still couldn't utilize that unless there was emergency legislative action.

Secretary of State Frank LaRose [00:53:50] Yeah, that's correct. It's worth reiterating, of course, I'm open to trying to do hard things as my friend the leader said. Anybody that knows me knows that I embrace challenges. But certainly we can't just pass a map and then hope that we can get emergency legislation done. I would need assurance from the Speaker and the president, the minority leaders of both chambers that we can get that emergency legislation done because otherwise we'd be passing a map that we couldn't implement. We can't run an election without the emergency legislation. And so I'm not willing to vote for a map and then hope that the legislature can come into session in the next week or two and pass this emergency legislation. We would need either firm assurance or they need to be called into session tomorrow to do that.

Co-Chair Rep. Jeff LaRe [00:54:35] Thank you, sir. Auditor Faber.

Gov. Mike DeWine [00:54:39] Thanks. I want to separate these two issues because I want to get back to what Secretary LaRose just indicated and make sure I understand clearly what that is. But I want to deal with this independent map drawer issue first. I oppose bringing the infinite map drugs back. I'm not sure that that process was overly helpful, in large part because we never had a chance to give independent input as commissioners. The whole understanding and the whole view of the order from the court in my view, was the commission was supposed to draw maps. We never even got a chance to offer amendments. We never got a chance to look at the details of what they were doing in the process because they didn't hit the deadlines. And candidly, I think that the staff that are here could have certainly done that and saved the state an awful lot of money. And while I'm sure they're good guys, they ment well, they expressed over and over how complicated the Ohio rules were and that they had to relearn the Ohio rules to do their job. And we had people in place, both Democrats and Republicans, that had our staff been directed to sit in a room and do it. They could have come up effectively what the independent map drawers did for, frankly, expenses that were already being incurred, some of which we heard about earlier and some of which apparently were incurred by staff staff charges, just like my my people who are I don't want to my people tell me not to say that they're map drawers, because they're not, they're staff who have tried to learn these complicated systems and understand the area the best they can. But there are people collectively who can find those answers. And so I think spending more money, of the taxpayers money on these two individuals, even if they're available is unnecessary. And so I would not be supportive of rehiring independent members. Now, if we want to get back to the second after, you want to dispense with the map drawer issue. With regard to the other issue, I think Secretary LaRose raised a very, very important baseline question. If I heard his testimony correctly, it is that we can do nothing at this point that is going to pass a map that is going to be able to be implemented by his staff for a whole host of reasons. And I want to walk through those reasons in a second and ask him to tell me what he thinks would need to be in a emergency piece of legislation. So we know exactly what the targets have to be, if that is doable or not. But what I heard him say very clearly, and he is the expert in this area and I will, of course, be deferential to him in this area. But it will certainly shape my view of what we can and can't do, is that if we can do nothing. Between now and August 2nd. With regard to the map for this next two year cycle, I don't think that ends our obligation to pass a map for some other period of time. I agree with the governor. We have to do what the court told us to do and we don't have a choice. But when we do that, in our ability to think

deliberately and carefully and thoughtfully on, that is a different analysis. But unless I misheard the secretary and I want to make sure I heard him correctly, whether we modified Map three or whether we modified a new map or whether we modified the map drivers map, anything we would pass between now and Friday is impossible. And I'm using that term on purpose, impossible to be implemented for an August 2nd election. No matter what we do. And the reality is, is the only possibility. For any of that to be able to be implemented by August 2nd would require at least two assumables, both of which were not in the power necessarily to assume. One is that the legislature could pass an emergency clause changing the law in some areas. And two, and I think this is an important thing you mentioned, but nobody picked up on was also having certainty that that's actually going to be the map because the court's going to have to review and the petitioners get a chance to challenge any map that we would ultimately pass. And without a certainty that the map is the map. It's tough for you to implement a map on an election basis on August 2nd. Did I hear you correctly, sir?

Secretary of State Frank LaRose [00:58:50] Yes, you absolutely did. The let's start with the May deadlines. The first one coming up is May 16th, which would be to certify the validity and sufficiency of petition candidates.

Auditor Keith Faber [00:59:02] Are these the things that you would need change in emergency legislation?

Secretary of State Frank LaRose [00:59:04] Absolutely.

Auditor Keith Faber [00:59:05] Thank you. I want to make sure I was.

Secretary of State Frank LaRose [00:59:06] Yeah. So, again, if the federal court were to approve, revalidate, whatever the right legal term is the May 3rd map. All of these deadlines would have already elapsed for the, sorry not the May 3rd map. The third map. All of these deadlines would have yet already elapsed for the third map that the federal court has said that they would consider re-validating if if this commission didn't act. So these are new deadlines that would only accrue if there was a new map enacted by this Commission. May 16th, certify validity and sufficiency of candidate petitions. May 20th, this is the deadline for protests against those petitions, which is again, all required by law. May 24th, and this is the big one for our office, the form of the ballot. This is when we lay out for the boards what the ballot looks like so that they can begin doing logic and accuracy testing. Remember back to me giving the list of things that went wrong over the last 48 hours that we were able to work through, but could have been avoided if they hadn't been rushed. The form of the ballot is necessary in order to do logic and accuracy testing and in order to begin the very careful and deliberate printing of those ballots. So that would occur on May 24th. Boards of elections must certify the names of the candidates, also on May 24th. And then there's a protest for write in candidates on May 27th. That's just the ones in May. There's a whole list of deadlines that come up in June. So those are the kinds of things that would have to be considered. We're not even talking about right now the 9C requirement in the Constitution allowing candidates 30 days to move from the date a new map is enacted.

Co-Chair Rep. Jeff LaRe [01:00:56] Representative Russo.

House Minority Leader Allison Russo [01:00:58] Thank you. Again, I'm going to go to the second part of this discussion, which is about these dates, unless I'm understanding or misunderstanding this May 28th, occurs after May 16th, May 20th and May 24th. My

understanding is in every, even with the third map, candidates have not been validated in all counties, nor has the process for questioning that validation. And I'm losing my train of thought here. That has not also not happened with the third map and all of these counties. So I'm still having trouble understanding that even with the third map, given that it has not been ordered yet by a federal court and will not happen until after May 28th. How regardless of whether or not we're talking about a third map or a new map that this commission passes, that we don't still have the same problem that may require or sounds like it will require emergency legislation. So I feel like this is a false choice here because it's the same choice regardless of which path we go with this, because these things, the deadlines will have already passed anyway, because they haven't been done. And the third map would not be ordered. And again, this all assumes the federal court doesn't change its mind until after the 28th.

Co-Chair Rep. Jeff LaRe [01:02:36] Secretary LaRose.

Secretary of State Frank LaRose [01:02:37] Yeah, I'll respond. And this is where I'll be careful not to make legal pronouncements because I'm not a lawyer. But the the act that the Federal Court would be taking punitively is that they would be validating a map that this commission has already enacted. This commission enacted a map. It was struck down by the Ohio Supreme Court. The federal court would be reversing the action of striking down that court. And so in that sense, the timelines have all played out from when this commission enacted that map. And the federal court would be ordering that that map be run on an August 2nd election. Now, of course, those of us in executive office, we don't make the laws. We faithfully carry those out. So what I need to look at with the work that I do. Excuse me. What I need to look at with the work that I do is to make sure that I'm faithfully following Title 35 of the Ohio Revised Code. And the legislature has already enacted a few weeks ago provisions stating that candidates that filed by the February 2nd filing deadline would be grandfathered effectively into the districts as long as the petitions had signatures in the county that includes a part of the new district and all that kind of thing. You remember the language that you all worked on, on that. And so those would be the the petition filing questions have already passed because that was triggered way back on February 2nd when the original statutory petition filing deadline occurred. And so these new deadlines that I was talking about would only be triggered by a new map and a new election to run those new maps.

Co-Chair Rep. Jeff LaRe [01:04:24] Thank you, Secretary. Senator McColley.

Sen. Rob McColley [01:04:27] Thank you, co-chair. I frankly am inclined to defer to the secretary. He knows that these deadlines inside and out. But as far as the discussion on whether there would be votes for an emergency, you know, I I hope I'm not stepping too far out of line here. But based upon previous conversations that we've had in our own caucus and conversations I've had with other members of our caucus, I don't think there would be votes for an emergency at this time in this process. And so, you know, whether whether people like that or not, that's what it takes under the Ohio Constitution to be able to change law without the 90 day layover. And I don't think there would be votes in the Senate at least to get the 22 requisite votes to make an emergency piece of legislation. As as we go a little bit further down that road, and again, for probably the fourth or fifth person trying to recenter this back to the topic of the independent mapmakers. I would I would agree wholeheartedly with everything the governor said as to the difficulties that these independent mapmakers confronted when they were in there drawing maps and it was through no fault of their own, they were thrown into a situation where, while they may, may be relative experts compared across the country, they were thrown into a situation where

there had been continuing hundreds of pages of guidance provided by the Supreme Court in a short amount of time and a complex set of constitutional requirements that I believe they even mentioned might be the most complex in the entire country and then told to try and figure this out, which reiterates the point that I was saying earlier. We have mapmakers on staff Ray DeRossi and Chris Glassburn, who are people who have deep familiarity with Ohio, with its political geography, and where some of these some of these traps may come into place when they're trying to come up with these maps. But I would also say that in regards to the independent map, some of these difficulties were highlighted even with the what I feel is the narrow lane. And insofar as how this map needs to be drawn that the commission has been put into as a result of the jurisprudence from the Supreme Court. Some quotes that I noticed while watching it was Dr. Johnson saying, "I never worked this hard for a commission making districts noncompetitive." Dr. McDonald saying probably most of the way through his house map, the first iteration, saying he hasn't even considered compactness yet. One of the map makers saying, "no reason I can't split the community just because no one's done it, I'm allowed to." That was Dr. McDonald another saying, "if we meet the partisan balance goals, is population balance that important?" District another quote, "district by district, we are really drawing heavily for partisanship relative to the other requirements of the Constitution." Another quote from Dr. Johnson. "Parma and North Royalton are a perfect district together, but it's a Republican district," referencing why he could end up drawing this district. Quotes go on and on and on. Dr. McDonald asking Dr. Johnson what he's working on, getting rid of a competitive district, Dr. Johnson says. Dr. McDonald saying, "I could improve the performance of this district. I could get it to over 52%, making it more partisan." And this one as well. Dr. McDonald later on the Saturday saying, "if we're not worried about compactness, we'll get the seats and make them as symmetric as we can." The whole point in all of this is I feel there's been such and this is even from an outsider's view, who has not been involved in the actual commission process until now. There's been such an emphasis placed on the proportionality and the symmetry requirements that are that are being placed on us largely through the courts interpretation, rather than what I would see as the plain meaning of the Constitution that we have in some cases disregarded or at least subordinated many other provisions of the Constitution at that expense. And so you kind of look at look at the independent mapmakers map, even. When they finished, there were 16 constitutional violations that we could see. And when we're talking about compactness and the whole reason behind when this was passed, I would say everybody in this room, if they were being objective, would say part of the reason we passed this constitutional amendment was to eliminate unnecessary splitting of governmental units, eliminate unnecessary splitting of cities and counties, etc. But here we are even looking at the independent mapmakers map because they were so focused on maximizing the number of Democrat districts within the other bright line rules that may have been contained in Article 11, that you have the City of Dayton, for example, which is approximately 140,000 people could fit in one and part of a second House district was in four different House districts and two different Senate districts. The city of Toledo, approximately 270,000 people, which would fit in two House districts and part of a third was in four House districts and two Senate districts that would have fit entirely within one Senate district. Obviously, the city of Dayton would as well. Akron, which would have fit inside one Senate district and two House districts, was in four House districts and two Senate districts. The city of Cincinnati, which would have fit inside one Senate district and three House districts, was inside six House districts and three Senate districts. I know that people's towns may have changed over the course of time, but when this thing was passed, this was one of the biggest selling points for why we should pass it. Was the unnecessary splitting of some of these communities. And here we are trying to force these types of splits into a map because we put the partisan symmetry question and the proportionality question on such a pedestal over

everything else. And so I think, in my personal opinion, the best way to remedy this and get back to the basics at the very least is to reengage the caucus map drawers, because they're going to be the ones who have, in some cases, decades of familiarity with the state of Ohio.

Co-Chair Rep. Jeff LaRe [01:11:17] Representative Russo.

House Minority Leader Allison Russo [01:11:19] Thank you. Mr. Co-chair, there's a lot to respond to here. First, let me just be very clear. The independent mapmakers did finish a map and there was testimony in front of the federal court that the review, the work that needs to be done, the technical corrections would take less than a day to finish that. So let me be very clear. Also, let me be very clear that the splits that were just mentioned by Senator McColley, they exist in Map three. And in fact the independent mapmakers map, the compactness score and there was undisputed testimony about this actually has a better compactness score than map three. So I just want to, you know, make sure that we're being very honest about these maps. The other thing, just getting back again to the secretary of state and some of the dates that he has outlined. Again, statutorily, we still have deadlines May 16th, May 20th, May 24th. We have not done that work yet, even with the third map that still has to be done. The third map would not be put in place until the 28th at the earliest. And again, that's assuming that a federal court doesn't change its mind, which it could do, and they have been known to do in the past. But even if you assume that they won't, these statutory deadlines will still be an issue, even with that map. The other thing that I would like to note as well about map three is, if you will recall the 30 day -- Well, first of all, the changes that we did for the filing in the legislative adjustment, all of that was tied to a May 3rd primary date. Unfortunately, it was not tied to a primary. It was tied to the May 3rd primary date. So there may be some issues with that as well legally. But I will also remind you that after February 24th, the 30 day constitutional guarantee actually had not fully expired yet before that map was thrown out. So there's still this lingering question of if candidates, even with map three, have been granted their full ability to move into a new district because that 30 day window had not yet expired when the third map was thrown out, I believe it was three days before. And I believe that you and your staff specifically said that it was moot at that point, that 30 day window, because the map had been thrown out or the expiration of that 30 day window. So there's still that lingering question that even exist with map three. I say all of this again to reiterate that whether we're going down the map three map and not following the state Supreme Court's order, and we're going to defy that and not do anything or we're actually going to work on a map. You still have some of the same issues from just from the perspective of conducting an election.

Secretary of State Frank LaRose [01:14:30] Mr. Co-chair, let me respond to that, if I may?

Co-Chair Rep. Jeff LaRe [01:14:31] Please.

Secretary of State Frank LaRose [01:14:32] So all of these deadlines that we're talking about prior to the 28th of May don't apply if the third map is the thing that is enacted, because again, certifying sufficiency and validity of partisan candidates that happened on the schedule already, that was required in the code. And that's all I have to work with is what you all have instructed me to do. In the Ohio Revised Code, we can certify candidates. We have certified candidates for that, the boards of elections are prepared to do that and then of course protests to petitions and that kind of thing. All of those

deadlines are are things that have already been considered under the timelines set out in the code. And so this would only be necessary if there were a new set of maps enacted.

Co-Chair Rep. Jeff LaRe [01:15:23] Further discussion? The motion on rehiring the independent map drawers. Will the staff please call the roll.

Staff [01:15:40] Co-Chair LaRe.

Co-Chair Rep. Jeff LaRe [01:15:42] No.

Staff [01:15:43] Co-Chair Sykes.

Co-Chair Sen. Vernon Sykes [01:15:44] Yes.

Staff [01:15:45] Governor DeWine.

Gov. Mike DeWine [01:15:46] No.

Staff [01:15:47] Auditor Faber.

Auditor Keith Faber [01:15:50] No.

Staff [01:15:50] Secretary LaRose.

Secretary of State Frank LaRose [01:15:50] No.

Staff [01:15:52] Senator McColley.

Sen. Rob McColley [01:15:53] No.

Staff [01:15:54] Leader Russo.

House Minority Leader Allison Russo [01:15:55] Yes.

Staff [01:15:57] Mr. Co-Chair. Two five.

Co-Chair Rep. Jeff LaRe [01:16:00] The motion is voted down. At this time we'll move the discussion to the commission's plan of work and a meeting schedule will open that up for discussion. No discussion? Seeing none, is there any further business to be brought before the committee? Hearing none, the committee stands adjourned.

Ohio Redistricting Commission - 5-5-2022.mp4

<https://www.ohiochannel.org/video/ohio-redistricting-commission-5-5-2022>

Co-Chair Sen. Vernon Sykes [00:00:01] I would like to call the Ohio Redistricting Commission to order. Before we start, co-chair LaRe would like to make a comment.

Co-Chair Rep. Jeff LaRe [00:00:12] Certainly I understand everybody's enthusiasm, but after yesterday, I just want to remind folks that we have an overflow room just across the hall. Should anybody feel the need for clapping and cheering, that would be more appropriate. This institution was here before all of us, and it'll be here after we're all gone. So out of respect, I'd ask you to not clap and cheer so that we can hear one another in the folks listening online can hear as well. And the sergeant at arms in the back room will be happy to show anybody where that is should they need to go there. Thank you.

Co-Chair Sen. Vernon Sykes [00:00:44] Will staff please call the roll?

staff [00:00:47] Co-Chair LaRe (here) Co-Chair Senator Sykes (here) Governor DeWine (here) Auditor Faber (yes) Secretary, Secretary LaRose (here) Senator McColley (here) Leader Russo. (here) Mr. Co-Chair, a quorum is present.

Co-Chair Sen. Vernon Sykes [00:01:06] With a quorum being present, we will meet as a full commission. In your folders there are minutes of our previous meeting held yesterday. Is there motion to accept the minutes.

Unidentified [00:01:18] so moved

Co-Chair Rep. Jeff LaRe [00:01:19] seconded

Co-Chair Sen. Vernon Sykes [00:01:19] its been moved and seconded, is there any objections to the minutes being approved? Hearing none, the minutes are therefore approved. This time we'd like to know if there's any further business to be conducted here by the Commission. I will call on Leader Russo.

House Minority Leader Rep. Alison Russo [00:01:39] Thank you. Co-Chair. I'd like to make a motion to adopt the independent mapmakers maps as identified, as modified by Dr. Rodden and presented to the State and Federal Courts and uploaded to the Commission website.

Co-Chair Sen. Vernon Sykes [00:01:52] Second, the motion.

House Minority Leader Rep. Alison Russo [00:01:55] Great. As everyone knows, the independent map drawers completed the work that they were hired to do. They produced constitutional maps that were also more compact than any of the commission maps that have been adopted so far. As with any house that is built, inspection usually reveals a punch list of little fixes needed to make everything just right. The same is true with any set of maps, and the short punch list that was identified has also had each item addressed. So for us we have a modified independent map drawer's map, and I think those are going to be passed out if they haven't already. It's been available to all of us since April 8th. You have the handouts describing the map before you color maps, partizan stats, information about precisely what was fixed within the maps by Dr. Rodden as presented to the state and federal courts. Yesterday we heard the governor say that we must adopt constitutional

maps if it can be done. Well, it can be done. And that has been noted by the courts. It was done. That was also noted by the courts. And those maps are now before us with this motion. I will remind my fellow commissioners that we are under a court order to adopt a constitutional set of maps by 9 a.m. tomorrow morning, regardless of any implementation timelines or impediments or an election cycle. And I recommend support of this motion.

Co-Chair Sen. Vernon Sykes [00:03:41] Senator McColley

Sen. Rob McColley [00:03:43] Thank you, Mr. Co-Chair. I would be opposed to working off of these maps. There are several reasons. Number one, I know there's there's been some been some assertions that this was a finished product of the independent mapmakers or that they finished their work that night. And I understand what Leader Russo is saying, that there were several items that needed to be changed. Small items. But but I would I would note a few things. Dr. Johnson, in his sworn affidavit, said several things in anticipation of the the federal court case, I believe, where he mentioned that he did not finish his work on this map. And he further mentioned that, as you guys are all aware in the rules regarding the independent mapmakers, there was a requirement that none of the caucus mapmakers inject their maps or draw the maps themselves for the independent mapmakers. Dr. Rodden, in his affidavit further stated that there were a full 21 House districts and seven Senate districts that were literally taken from Mr. Glassburn and put into the map in violation of the rules established by this commission. And so the maps were neither finished nor in accordance with the rules of this commission. The next question I have is, who finished the maps? It's Dr. Rodden and Dr. Rodden did it outside the purview of this commission. He did it without the guidance of this commission. And beyond that, you have to ask yourself where, who, who, who is Dr. Rodden and what's his relevance to the case at hand? He is a paid expert by the attorneys that are the petitioners in this case and the Eric Holder aligned groups. And so I think it would be improper for us to use this Rodden map as a starting point for continuing our conversations and that's regardless of the reasons that the Secretary of State had mentioned yesterday and the objections that I think he still holds today. Thank you.

Co-Chair Sen. Vernon Sykes [00:06:10] And are there additional comments?

House Minority Leader Rep. Alison Russo [00:06:13] Mr. Co-Chair, I'd like to respond to that

Co-Chair Sen. Vernon Sykes [00:06:15] Leader Russo.

House Minority Leader Rep. Alison Russo [00:06:16] Thank you. Thank you, Mr. Co-Chair. To be clear, this map is finished. In fact, what Dr. Johnson said in his testimony was that he had not finished inspecting and reviewing and double checking the maps. After that, they were complete. And that is what Rodden did. That was submitted to both the court, the federal court, and as well as the state Supreme Court. So my question to the commission and for those who are opposed to this map, and I suppose I'll start with Senator McColley specifically what violations of Article 11, Sections two, three, four or five and seven have been identified within this corrected map that has been presented before us?

Co-Chair Sen. Vernon Sykes [00:07:04] Senator McColley.

Sen. Rob McColley [00:07:06] Thank you, Co-Chair. As I mentioned in my response earlier, it was regardless of the issues that Secretary LaRose illustrated, however, many of

those issues remain for me. So regardless of whether this map complies or not, although I have reason to believe looking at some of the districts, there could be some some issues. Regardless of that fact, I share many of the same concerns of the secretary. And so I cannot in good conscience support this map.

House Minority Leader Rep. Alison Russo [00:07:41] Senator?

House Minority Leader Rep. Alison Russo [00:07:42] Leader Russo.

House Minority Leader Rep. Alison Russo [00:07:43] I thank you. Co-Chair. So if I'm understanding correctly, again, we have a constitutional map that is before us that has been verified, has no constitutional violations of Article 11, Sections two, three, four, five and seven. And as a reminder, we are under a court order to adopt a constitutional set of maps by 9 a.m. tomorrow morning. Regardless of any implementation challenges, regardless of what election cycle we do or don't think that this will apply to. So I recommend support of this motion and would ask the commissioners, if not adopting a constitutional map today, will put us at risk of contempt.

Co-Chair Sen. Vernon Sykes [00:08:32] Any additional comments? Auditor Faber.

Auditor of State Keith Faber [00:08:44] Yeah. Yeah. I had trouble adopting this map that I learned about today for the first time at 3:00 or thereabouts. The fact of the matter is, this map was not completed by the independent map drawers who, frankly, as the evidence would show, may have not have been all that independent. But regardless, the obligation was on us to draw map. As we all know, a number of us had amendments to be offered that the were not able to be considered in the time frame that the independent or the the map drawers had. It was our obligation to draw map not on to people that we hired, particularly when we couldn't even offer amendments to that map or talk about suggestions as to where they are, whether this map meets all the provisions of two, three, four or five and seven, I have no idea. I have not had a chance to review it in detail. And from that reason, and because of the reasons articulated by Secretary LaRose, I think it's inappropriate for us to be voting on that map as completed by one of the petitioners and their lawyers. Make no mistake, the Mark Mark Elias group, who apparently submitted this map and Mr. Rodden, who works for them, I've had things that I liked Mr. Rodden had done and thought might be a workable spot in the past. However, this map and these changes, I don't believe, represent that. I don't believe they're fair. And I believe they're gerrymandered in front of in favor of one of the parties. So I will be a no vote.

Unidentified [00:10:05] [inaudible audience chatter]

Co-Chair Sen. Vernon Sykes [00:10:09] Governor DeWine

Governor Mike DeWine [00:10:10] Mr. Chairman, thank you very much. In addition to these problems, there is another problem. Yesterday, after our meeting, I sat down with Secretary LaRose and went over the problems that he had articulated and we spent some quite some time to do doing that. I asked him then at the end of our discussion to reduce to writing what his position was. And I would like, if I could, Mr. Chairman, to to yield to the Secretary to explain those problems.

Unidentified [00:11:00] [inaudible audience chatter]

Governor Mike DeWine [00:11:03] Let me just say, Mr. Chairman, it was in more detail. And I think I got a fuller understanding of what he said and it is clear to me that it is impossible to proceed with an August 2nd primary with any map other than map three. That's the conclusion he comes to.

Secretary of State Frank LaRose [00:11:34] Absolutely.

Unidentified [00:11:34] [inaudible audience chatter]

Governor Mike DeWine [00:11:36] So I think that is relevant. Mr. Chairman, I think that is relevant. Members of the committee. I think that is relevant to this discussion, too. And I would ask if the Secretary could explain that at this point.

Co-Chair Sen. Vernon Sykes [00:11:52] One question to the governor, do you think it would be more relevant? I understand there may be another motion for consideration of map 3?

Governor Mike DeWine [00:11:58] Mr. Chairman, if you rather have that explanation later, that's fine. I couldn't decide whether to do it now because I think it does have some relevance to this. But you're right, it probably has more relevance later. And if you want to do it later. I'm perfectly fine with it.

Co-Chair Sen. Vernon Sykes [00:12:14] Okay. We'll do it later.

Governor Mike DeWine [00:12:15] Thank you.

Co-Chair Sen. Vernon Sykes [00:12:17] Leader Russo.

House Minority Leader Rep. Alison Russo [00:12:18] I thank you. Co-Chair. I would like to address the issue of having these maps before us. Again, I would like to remind members of this commission that these maps were actually filed with the court on April 8th and April 12th. They've actually been delivered by the counsel of the plaintiffs to all of the counsel of members of this commission. So we have all had plenty of time and access to these maps. They are virtually the same as the maps that the map drawers completed on March 28th. And again, we again have a constitutionally compliant map in front of us. That is what the court has ordered us to do, is to adopt a constitutionally compliant map by tomorrow morning at 9 a.m.. Again, not with consideration of whether or not implementation of this map or the election cycle that this map would be used. That is the court order before us. And, you know, again, I would propose back to the members of the commission. If you are not happy with these maps, why no amendments have been offered to change this map if there were changes that you wanted to make.

Co-Chair Sen. Vernon Sykes [00:13:43] Are there additional comments? Will the staff please called roll?

staff [00:13:53] Co-Chair LaRe?

Co-Chair Rep. Jeff LaRe [00:13:55] No.

staff [00:13:56] Senator Sykes?

Co-Chair Sen. Vernon Sykes [00:13:58] Yes.

staff [00:13:59] Governor DeWine?

Governor Mike DeWine [00:14:01] No.

staff [00:14:01] Auditor Faber?

Auditor of State Keith Faber [00:14:02] No.

staff [00:14:03] Secretary LaRose?

Secretary of State Frank LaRose [00:14:04] No.

staff [00:14:05] Senator McColley?

Sen. Rob McColley [00:14:06] No.

staff [00:14:07] Leader Russo?

House Minority Leader Rep. Alison Russo [00:14:08] Yes.

staff [00:14:09] Mr. Co-Chair. Two-Five.

Unidentified [00:14:11] [inaudible audience chatter]

Co-Chair Sen. Vernon Sykes [00:14:16] Order! Please! Order, please. Order, please.

Unidentified [00:14:20] [inaudible audience chatter]

Co-Chair Sen. Vernon Sykes [00:14:25] The motion fails. Is there any other business to be brought before the commission?

Unidentified [00:14:31] [inaudible audience chatter]

Governor Mike DeWine [00:14:37] Mr. Chairman?

Co-Chair Sen. Vernon Sykes [00:14:39] Governor DeWine.

Governor Mike DeWine [00:14:40] I wonder if we now could have the explanation. Again, I asked the Secretary to reduce it to writing. I think it is, at least for me, was a more fuller, after reading this two pages, more full understanding of exactly the the quandary we are in or the very difficult situation that we are in. And I would ask if he could explain that.

Co-Chair Sen. Vernon Sykes [00:15:03] Are you making a motion just want the explanation?

Governor Mike DeWine [00:15:06] Not at this point, but we will have a motion.

Co-Chair Sen. Vernon Sykes [00:15:08] Okay.

Secretary of State Frank LaRose [00:15:09] Happy to do so, Mr. Chairman.

Co-Chair Sen. Vernon Sykes [00:15:12] Secretary LaRose

Secretary of State Frank LaRose [00:15:13] Yeah. Thank you, Mr. Chairman. Thank you, Governor. I'm going to read this. Normally, I wouldn't read something verbatim, but I think it's important for everybody to hear it. It's been passed out to the members of the commission right now, and there'll be copies for the members of the public and the press as well. This is a statement that I wrote today. As of today, a primary election date for the offices of state representative, state senator and political party state central committee member has not been established. The Ohio General Assembly has the sole authority in the Ohio Revised Code to set the time, place and manner of a public election conducted in the state of Ohio. The only other government entity that can supersede that authority is a federal court of law. A three judge panel assigned to consider the Ohio General Assembly redistricting case, *Gonidakis et al. v. LaRose* has ordered that if the state does not adopt a lawful district plan and set a primary election date before May 28, quote, "We will order the primary, be moved to August 2nd and map 3 be used for [the on- for] only the 2022 election cycle. After that, Ohio will have to pass a new map that complies with federal and state law." As of this date, the Ohio General Assembly has not set a primary election date for the above mentioned contests. Any action doing so would require an emergency clause to make the election date and its associated deadlines effective immediately. The Speaker of the House and the president of the Ohio Senate have indicated publicly that they lacked the required two thirds vote in both chambers to enact emergency legislation for this purpose. Therefore, the only remaining option to conduct a primary election to which Ohio voters are entitled is the prescribed action by the federal district court. My office,

Co-Chair Sen. Vernon Sykes [00:16:53] Order please.

Secretary of State Frank LaRose [00:16:53] My office and the bipartisan Ohio Association of Elections Officials have repeatedly stated that because August 2nd, 2022, is already reserved for special elections in Ohio law, it is the only date on which a statewide primary election can be conducted in advance of the scheduled general election, of course November 8, 2022. August 2nd, 2022 is the latest date by which Ohio can conduct a primary election without overlapping or altering the scheduled timeline to successfully administer a general election. This is also recognized by the three judge panel in *Gonidakis et al. v. LaRose* and uncontested by any of the parties involved in that litigation. Under Ohio law elections are conducted over at least a 90 day period. 89 days now stand between this date, today and August 2nd, 2022. This puts Ohio within the traditional statutory window for administering its next election. Federal panel majority in *Gonidakis* stated clearly that for any new district plan to be utilized for an August 2nd, 2022 primary election and to have the benefit of a full 90 day election administration period, the Commission would need to adopt it by April 20th, 2022. Obviously, that did not happen. Their opinion is based on testimony from my staff that the 88 county boards of election would collectively need at least two weeks to reprogram their computer systems to new House and Senate districts before the full 90 day primary election period would begin, which would also do the least amount of damage to current Ohio election law. To administer an August 2nd election the boards must meet a series of statutory and administrative deadlines to have the first ballots, the first ballots which are known as the Uniformed and Overseas Civilians Absentee Voting Ballot Act, or UOCAVA ballots. Those must be prepared not later than June 17, 2022, 46 days before the election. To achieve this, elections officials must meet the following statutory requirements, these are those requirements: have to certify no later than 78 days before the primary election, hold protests against certified candidates no later than 74 days before the primary election, determine the validity or invalidity of the declaration of candidacy and petition, receive

write in candidate declarations of intent for partisan offices, hold protests against write in candidates no later than 67 days before the election, the Secretary of State must certify to boards of elections the form of the official ballot no later than 70 days before the primary election, and then boards of elections of the most populous counties in a multi county district must certify names of all candidates to the other county boards of elections in the district no later than 70 days. Boards of elections need at least two weeks, as I stated before, to reprogram voter registration and tabulation systems to accommodate a new map, which, as of this date takes us to at least May 19th were a new map to be passed. At this point, the boards would already be in violation of state law unless the General Assembly changes the statutory deadlines. Additionally, my office would not instruct the boards to deprogram map three before May 28. Risking the new map could be invalidated with no immediate options to administer a primary election. This administrative delay also reduces or nearly eliminates the required process election officials must complete to conduct testing on all voting equipment proof ballots, test ballots, recruit poll workers, and order absentee ballot absentee and Election Day ballots. These are the some of the issues that I detailed for you all yesterday. In summary, the last day, a new map could have been ordered and implemented without ordering altering current statutory deadlines that proceed in August 2nd, 2022. Primary election was April 20th, 2022. The General Assembly has not set a new primary date and its leaders have publicly stated that they do not have the votes to pass emergency legislation to do so. All but two of Ohio's 88 County Board of Elections have fully programed the Third General Assembly District plan adopted by the Ohio Redistricting Commission. A majority of the federal panel considering Gonidakis recognized that map 3 has administrative advantages of implementation that no other map produced by the Commission to date presents, including a largely completed candidate certification process that also would not require the revisiting of deadlines and residency requirements. Therefore, map 3 is the only viable option, the only viable option to effectively administer a primary election on August 2nd, 2022. If on May 28th, 2022, the Federal Court orders that Ohio used Map three and sets that primary election date for August 2nd, 2022, my office will be prepared to issue a directive to the Boards of Elections, implementing that order and providing detailed instructions on the administration of a successful primary election, wanted to state, quickly, for reiteration purposes, the Speaker and the President have made it abundantly clear that they lacked the votes for an emergency clause legislation. They said that to us yesterday, and while I'm always willing to strive to accomplish something worthwhile, I'm certainly not interested in exercises in futility. And so what we have to work with is map 3. It's important to understand that earlier this year, when the commission adopted Map 3, my office began conducting the required statutory deadlines that are laid out in code for Map 3. We dutifully followed the law under Map 3 by sending out directives,

Co-Chair Sen. Vernon Sykes [00:22:39] Order please, please.

Co-Chair Rep. Jeff LaRe [00:22:43] Committee will stand at ease.

Secretary of State Frank LaRose [00:22:46] We dutifully followed the law... [committee stands at ease]

Secretary of State Frank LaRose [00:24:12] [reconvene] Appreciate that. So as I was stating, once Map 3 was adopted by this commission, our office dutifully followed the law with all of the timelines laid out in the law, including, administering directives to the boards of elections that told them to accept and review candidate petitions, allow for the protest period to begin. It also informed candidates how to utilize their rights under 9-C should they wish to move and even issuing the form of the ballot as well as posting a federal write

in ballot absentee notice which is required under federal law. All of those things occurred prior to the court's invalidation. So effectively, the Court the, the Ohio Supreme Court pressed pause on all of those elections administration processes if the federal court on the 28th of May were to overturn the ruling of the Ohio Supreme Court, essentially validating the third map. Our office is fully prepared to press play again on all of those processes which need to continue. That simply stated, is why MAP 3 is the most viable option from the elections administration standpoint. And with that, Mr. Chairman, I appreciate the time.

Sen. Rob McColley [00:25:26] Mr. Chairman, mr. Chairman.

Co-Chair Sen. Vernon Sykes [00:25:31] Yes, Senator McColley,

Sen. Rob McColley [00:25:35] Thank you. For for all the reasons we've discussed here today and those enumerated by Secretary LaRose's statement, I move that the Commission resubmit the February 24th, 2022 Commission Group plan only for use in the 2022 election, and the statement to the Redistricting Commission by Ohio Secretary of State LaRose to the Secretary of State's office no later than 9 a.m. tomorrow morning in response to the Ohio Supreme Court's order dated April 14, 2022. And after filing with the Secretary's office, counsel for the Redistricting Commission shall file the February 24th, 2022 Commission Approve Plan and the statement to the Redistricting Commission by the Ohio sec- by Ohio Secretary of State LaRose with the Ohio Supreme Court not later than 12 p.m. tomorrow in response to the Ohio Supreme Court's order dated April 14, 2020.

Secretary of State Frank LaRose [00:26:26] Second, second

Co-Chair Sen. Vernon Sykes [00:26:30] Is there a second? Leader Russo.

House Minority Leader Rep. Alison Russo [00:26:41] I thank you, co-chair. First, I would like to say and be very clear about this, that the federal court has not overturned a state court decision. Nor have they given us a loophole to simply ignore a court order. And this commission does not have the authority to only set a map for two years. We don't have that authority. We can vote to set a map out for four years or for a ten year map. That is the authority that we have. So my question for the Secretary of State that Secretary LaRose, after hearing your explanations, are you saying that you object to a constitutional compliant, constitutionally compliant map that was submitted the independent mapmakers map with the corrections by Rodden simply because of this implementation timeline or because the order itself, again, is not about implementation, it is about instituting a constitutionally compliant map.

Secretary of State Frank LaRose [00:27:49] There's two responses to that. Mr. Chair, if I may.

Co-Chair Sen. Vernon Sykes [00:27:51] Yes, please.

Secretary of State Frank LaRose [00:27:52] The first one is that, as I stated yesterday, in order to use that map to conduct an election, we would need to have supermajority votes in both chambers. And the Speaker and the President have made it clear to me that the votes for those for the for such legislation does not exist. And so I'm not interested in creating a situation where our elections officials are handed an untenable and unaccomplished situation. So unless there was a vote of the legislature to set the date and then change the deadlines associated with it, no map is something that I'm willing to consider at this point. Second, I guess I don't share your confidence that the map that you

presented today is void of any constitutional violations. You have stated that. But I have I guess I don't share that same optimism that that map is divinely inspired or perfectly void of any kind of constitutional violations.

Co-Chair Sen. Vernon Sykes [00:28:52] I would like to I'd like to move that we take a recess to consult with the commission's attorney to give us some advice as relates to map 3, whether or not is constitutional and or whether or not we are subjecting this commission to further charges of contempt.

Sen. Rob McColley [00:29:13] I object.

Secretary of State Frank LaRose [00:29:16] I object as well.

Co-Chair Sen. Vernon Sykes [00:29:22] I second the motion

Co-Chair Sen. Vernon Sykes [00:29:26] Any additional comment?

Secretary of State Frank LaRose [00:29:27] There is an objection

Co-Chair Sen. Vernon Sykes [00:29:31] Will this staff please call the roll.

Sen. Rob McColley [00:29:34] To be to be a point of order. This is on the motion to recess correct?

Co-Chair Sen. Vernon Sykes [00:29:38] On the motion to recess

staff [00:29:43] Co-Chair LaRe

Co-Chair Rep. Jeff LaRe [00:29:44] No

staff [00:29:45] Co-Chair senator Sykes

Co-Chair Sen. Vernon Sykes [00:29:46] Yes

staff [00:29:47] Governor DeWine.

Governor Mike DeWine [00:29:48] No

staff [00:29:48] Auditor Faber

Auditor of State Keith Faber [00:29:50] No

staff [00:29:51] Secretary LaRose

Secretary of State Frank LaRose [00:29:52] No

staff [00:29:53] Senator McCauley.

Sen. Rob McColley [00:29:54] No

staff [00:29:55] And Leader Russo

House Minority Leader Rep. Alison Russo [00:29:56] Yes.

staff [00:29:58] Mr. Co-Chair, two-five.

Co-Chair Sen. Vernon Sykes [00:30:00] Motion fails.

Secretary of State Frank LaRose [00:30:01] Chairman, I move we call the question.

Co-Chair Sen. Vernon Sykes [00:30:10] Staff please called the roll

staff [00:30:15] Co-Chair LaRe.

Co-Chair Rep. Jeff LaRe [00:30:16] Yes.

staff [00:30:17] Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:30:18] No.

staff [00:30:19] Governor DeWine.

Governor Mike DeWine [00:30:20] yea

staff [00:30:21] Auditor Faber.

Auditor of State Keith Faber [00:30:23] Consistent with my vote on this map the first time, because I believe it has constitutional infirmities, particularly because I believe it's unconstitutional as a drawn map in favor of one political party, the Democrats. I don't believe this map supports the constitutional test. And therefore, even though I understand the need to get a map in place, I think if the federal courts want to impose it, they can do that. I'm a no vote.

Sen. Rob McColley [00:30:52] Mr Chariman, more point of order.

Co-Chair Sen. Vernon Sykes [00:30:54] Yes.

Sen. Rob McColley [00:30:55] A motion to call the question is a separate motion from the actual question. Correct. I'm just confirming that. And so this vote is on a motion to call the question. It's not on the actual question. That was the motion.

Auditor of State Keith Faber [00:31:10] Thank you. Thank you for that clarification Senator McColley and for calling the question? Yes. [inaudible audience chatter, simultaneous]

staff [00:31:17] I'm sorry Mr. Co-Chair, I did not hear what Auditor Faber said

Co-Chair Sen. Vernon Sykes [00:31:31] He indicated that he, uh, yes. The yes, the yays prevail. So we will call the question now on the motion.

Sen. Rob McColley [00:31:41] Mr. Chairman, that I don't believe my name was called on the previous motion. I just want to make sure it's a it's a yes vote.

staff [00:31:48] Would you, Mr. Co-Chair, would you like me?

Co-Chair Sen. Vernon Sykes [00:31:49] Please call the name Senator McColley

staff [00:31:54] Senator McColley.

Sen. Rob McColley [00:31:54] yes

staff [00:31:54] Secretary LaRose

Secretary of State Frank LaRose [00:31:54] Yes

staff [00:31:55] Leader Russo.

House Minority Leader Rep. Alison Russo [00:31:56] No.

staff [00:31:58] 5 to, to 2, sir.

Co-Chair Sen. Vernon Sykes [00:32:02] At this point, we will call to question then on the motion. Staff, please call the role.

staff [00:32:10] Co-chair LaRe

Co-Chair Rep. Jeff LaRe [00:32:12] Yes.

staff [00:32:14] Co-Chair Senator Sykes.

Co-Chair Sen. Vernon Sykes [00:32:15] No.

staff [00:32:16] Governor DeWine.

Governor Mike DeWine [00:32:17] yes.

staff [00:32:17] Auditor Faber.

Auditor of State Keith Faber [00:32:20] For all the reasons I previously articulated, I am a no vote because I believe it is a constitutional gerrymanders.

staff [00:32:29] Secretary LaRose.

Secretary of State Frank LaRose [00:32:30] Yes.

staff [00:32:31] Senator McColley.

Sen. Rob McColley [00:32:32] Yes

staff [00:32:33] Leader Russo [audience chatter]

House Minority Leader Rep. Alison Russo [00:32:35] Consistent with a previous Supreme Court order and ruling that has already indicated that this map is not constitutional, I vote no.

staff [00:32:44] Mr. Co-Chair 4-3

Co-Chair Sen. Vernon Sykes [00:32:50] The motion is approved. Is there any further business to be brought before the Commission today?

House Minority Leader Rep. Alison Russo [00:32:55] Mr.,

Co-Chair Sen. Vernon Sykes [00:32:56] Yes.

House Minority Leader Rep. Alison Russo [00:32:57] Are we going to see the statement?

Co-Chair Sen. Vernon Sykes [00:32:58] Yes. [audience chatter] It's improper at this time. Do you have the majority report We have a requirement, if I have order.

Unidentified [00:33:24] [audience chatter] [committe stands in recess]

Co-Chair Sen. Vernon Sykes [00:33:35] [reconvene] at this time, we will call on Leader Russo for a Minority Report.

House Minority Leader Rep. Alison Russo [00:33:54] Thank you. Co-Chair Sykes. Ladies and gentlemen, the majority commissioners of the Ohio Redistricting, Redistricting Commission failed once again to uphold their duty to the Ohio Constitution and the people of Ohio. They failed to adhere to the old adage that those who cannot remember the past are condemned to repeat it. Unfortunately, we are not today dealing with ancient history, but instead in recent events we are again left with a blatantly unconstitutional plan that brings us no closer to the goal of a constitutionally compliant map. The actions taken by the majority are a clear affront to the Supreme Court of Ohio. The majority sat on their hands and adopted a plan today that we all know is unconstitutional. Once again, the majority members dragged their feet, they ignored our calls for action, defied the Supreme Court of Ohio, and paid no mind to the reforms adopted into our Constitution by the voters of Ohio at the last minute. The Commission once again adopted a patently unconstitutional map. In fact, it is simply a resubmission of Map 3 without seriously considering any widely available constitutional alternatives. The majority commissioners performed exactly as the dissent in the federal case of *Ganidakis versus LaRose* predicted. They did nothing and tried to run out the clock and a bad faith effort to punt the responsibility to another entity, prizing their partisan advantage over their duty as public servants sworn to uphold the rule of law. The federal court presumed that, quote, "Ohio's officials are public servants who still view partisan advantage as subordinate to the rule of law and that it would be, quote, 'in our own self-interest to pass a new map rather than accept map three.'" The majority commissioners have ignored this call to adhere to the rule of law and rise above partisan interest. The majority did not take us down this path by mere accident. The events that led us back here were not committed through incompetence. We are here purposefully. The majority had plenty of time to meet all the criteria presented by the Supreme Court of Ohio. There were some members of this commission who made consistent and clear efforts to meet those standards set by the court. And instead of action, our calls were met with silence or indifference. The Commission should have met numerous times between April 14th and today, and instead we met yesterday and adjourned abruptly without even fully discussing our sparse agenda. And at that meeting, the majority commissioners seemed much more interested with the Democratic caucuses map drawing consultant than they did with actually meeting a Supreme Court ordered deadline for a set of constitutional maps. The Supreme Court of Ohio gave every reason for the Ohio Redistricting Commission to reengage our independent map drawers, Dr. McDonald and Dr. Johnson and allow them

the few hours needed to finalize their maps from the last round of map drafting. Beginning April 14th, the time allotted to the commission was more than enough to reengage the map drawers provide them with the commissioner's feedback, debate potential amendments and finalize a constitutional set of maps. Instead, no action was taken, and less than two days before our May 6th, 9 a.m. deadline, the majority instead refused to reengage with the independent map drawers. The deficiencies of the map, adopted on May 5th by a vote of 4 to 3 are well known by commissioners, the court and the general public. The map fails to live up to the requirements in the Ohio Constitution, Article 11, Section 6-A and 6-B. The act of passing an unconstitutional map is egregious. It's egregious enough in its own right, but resubmitting an identical copy of a map already struck down by the Supreme Court of Ohio is indefensible. The majority commissioners have no defense, and they refused even to provide a pretense for their actions by abiding by the requirement in Ohio's Constitution, Article 11, Sections 8-C-2 to explain the constitutionality of their actions. The majority commissioners have ignored the Ohio Supreme Court and have not only refused to work on a new plan, as we have been given time and again directed to do, but have passed a plan that the Supreme Court of Ohio has already found to be unconstitutional. This is a clear slap in the face of Ohio voters and of the rule of law.

Co-Chair Sen. Vernon Sykes [00:39:38] The report does not require a vote and will be accepted in the record. Is there any further business? The meeting is adjourned.

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IN THE SUPREME COURT OF OHIO

League of Women Voters of Ohio, *et al.*,

Petitioners,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1193

Bria Bennett, *et al.*,

Petitioners,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1198

Ohio Organizing Collaborative, *et al.*,

Petitioners,

v.

Ohio Redistricting Commission, *et al.*,

Respondents.

Case No. 2021-1210

AFFIDAVIT OF DR. DOUGLAS JOHNSON

1. I am over the age of eighteen (18) and am competent to testify to the matters set forth herein. The following is true of my own personal knowledge and I otherwise believe it to be true.

2. I am the President of National Demographics corporation and have consulted on redistricting nationally. A copy of my CV is attached.

3. I was hired by the Ohio Redistricting Commission on March 21, 2022 to serve as an independent mapmaker to draft a fourth General Assembly districting plan along with Dr. Michael McDonald.

4. The primary six requirements applied to our work:

- a. Equal Population (state and federal requirement)
- b. Meet the geographic requirements of Ohio Constitution Sections 2, 3, 4, and 7
- c. Meet the Section 5 Senate drawing and assignment requirements of the Ohio Constitution
- d. Meet the Section 6 requirement of the Ohio Constitution to not favor a political party
- e. Meet the Section 6 requirement of the Ohio Constitution for partisan proportionality
- f. Meet the Section 6 requirement of the Ohio Constitution to draw compact maps

5. Ohio's complex geography and complex geographic requirements for redistricting mean that mapmakers must alternate back and forth between House and Senate maps until arriving at a map that meets the requirements for both House and Senate districts. No House map is complete until the Senate map is complete, and vice versa.

6. The intricate boundaries of Ohio villages, cities and townships also require a thorough review after a set of General Assembly maps are drawn to ensure that all of the Section 2, 3, 4, 5 and 7 geographic requirements are met. As the various Ohio Supreme Court rulings note, drafters of a number of earlier map proposals thought they have satisfied the Constitutional requirements of sections 2, 3, 4, 5 and 7 but were later determined to be unconstitutional.

7. We used the software Maptitude for Redistricting, which is customarily used for redistricting work across the county. It has been used by all the various mappers in Ohio redistricting, and it includes a number of reports that are handy in identifying inadvertent and potentially unconstitutional splits of counties, townships, cities and villages. Because the Maptitude reports are not tailored to the specific requirements of Ohio, the reports require a line-by-line review once they are generated to identify what are, and are not, constitutional divisions of the various jurisdictions. For example, a Maptitude report will identify a city split but the mappers must review the split to identify whether it is across a county boundary (and thus constitutional) or if it is unconstitutional.

8. As independent mapmakers, Dr. McDonald and I met with the Commission on Wednesday, March 23, 2022 and began our mapping work on Thursday, March 24, 2022.

9. Dr. McDonald and I suggested to the Commission that we would consult with the staff of the Republican and Democratic commissioners. If we asked for guidance on an issue and both sides agreed we would incorporate that into our maps, but if there was disagreement we would bring it to the Commission for direction. The Commission did not formally approve that direction, but there was no objection and I proceeded using that approach through Sunday.

10. On Thursday, Friday, Saturday and Sunday, I believe Dr. McDonald and I generally operated as independent mapmakers: we would ask, and staff from the Republican and Democratic caucuses would tell us, if an option we were considering was sure to run into a violation of Sections 2, 3, 4 and/or 7 (the Constitutional geographic requirements for redistricting). But otherwise I, and I believe Dr. McDonald as well, generally made the mapmaking decisions on our own for our separate maps. (I am sure some exceptions to this have been noted from the video and transcripts, but as a general rule this was true through Saturday and for most or all of Sunday).

11. On Monday, March 28, 2022, it was clear that we were not going to finish a map before the Court's midnight deadline without more direct guidance from Commission members' staff.

12. As the deadline loomed, Mr. Chris Glassburn, of Democratic staff, provided us a "seven counties" map he had previously drawn. This map cleaned up the Section 5 concerns in the seven northeast counties of the state, covering seven senate districts and twenty-one house districts. If Dr. McDonald and I had drawn this area on our own, we would never have come close to finishing a map in time for the midnight deadline. No Republican staff member or Commission member gave approval of the use of Mr. Glassburn's districts.¹

13. Dr. McDonald and I reviewed the partisan lean of Mr. Glassburn's "seven counties" districts and we made small changes to a handful of the districts in Cuyahoga County to maintain the partisan symmetry of our previous map. We did not – as Senator Huffman asked us to do when the map was first presented to the Commission with a split of Cleveland Heights – do a thorough review of every change that the "seven counties" map made to the previous House and Senate maps Dr. McDonald and I had drawn.

14. Given the time crunch of the midnight deadline, map revisions/alternatives requested by the State Auditor were never drawn. Also, per the policy mentioned above, the final map that was drafted included a configuration of Mahoning County that Dr. McDonald and I drew into the map on the condition that it would be run past the commission members' staff or the Commission. Mr. Blake Springhetti, Majority Director of Finance for the Ohio House of Representatives and Commission staffer for Speaker Robert R. Cupp, later conveyed the Republican commissioners' objection to that configuration of the districts in Mahoning County,

¹ That said, I was informed that Ray DiRossi, budget director for the Ohio Senate, was very sick that day and unable to attend.

but I ran out of time to change it (at that point in the timeline Dr. McDonald had been required to leave due to his teaching commitment the next day).

15. So the final House map that was drafted included the Mahoning County configuration that should have been redrawn if there had been sufficient time, and essentially all of the "seven counties" map drawn by Mr. Glassburn was incorporated despite a lack of sign-off on those districts by the Commissioners or their representatives.

16. All of these issues arose from the very challenging timeline. Here is the rough breakdown of independent mapmaker activity on Monday. These are from my memory and the "created" dates on the data handover demographic summary and block assignment files. If there is disagreement between my recollections and what is shown on the available videos, the video should be the controlling source.

Monday, March 28 timeline	
11:30 am	Excel file with list of House and Senate incumbents received
Roughly 12pm	List of House and Senate incumbents geocoded and imported into independent mapmakers' House maps
7:20pm	House map drawn addressing House pairings ("House Merged 5")
9:04pm	Senate map built from the pm House map hit a "brick wall" and failed (This was "Senate Merged 5", which has two House districts unassigned to Senate districts and completely surrounded by House districts already assigned to Senate districts, and thus was never provided to Commission staff or posted online)
10:23pm	House map redrawn in the hopes of creating pathways around those "brick walls" without creating new problems ("House Merged 6")
11:25pm	Senate map drawn based on the 10:23pm House map drawn ("Senate Merged 6"); House and Senate "Merged 6" maps provided to Democratic Commission staff

17. While Dr. McDonald had to leave at 5pm on Monday, March 28, 2022, he called me from the airport to say that he recognized a population problem in one of the House districts in Wood County. Dr. McDonald also said Mr. Glassburn knew how to fix the population problem while preserving the competitive nature of that district. I took an initial shot at fixing the district

on my own, but it was getting clear at that point (6:07pm) that there was no way to complete an "independent" map by the midnight deadline. Thus I relied on Mr. Glassburn to identify the township that could be shifted to population balance the district while keeping the district competitive.

18. After drawing the 10:23pm House map, I am confident that I could have eventually found the way to a Senate map that worked with the 10:23pm House map but not by the deadline. Thus I relied on Mr. Glassburn guiding me to at least one of the pathways to a Senate and House map that could work. I handed that Senate map off to Democratic Commission staff at 11:25pm, simultaneously confirming that (as far as I know) it worked with the 10:23pm draft House map. While it seemed to work, for the reasons listed below, I cannot say it was a final constitutional map.

19. As noted above, the Maptitude software has a number of reports that measure compactness and that are handy in identifying whether a map complies with the Section 2, 3, 4 and 7 requirements of the Ohio Constitution. Unfortunately I did not have any time to run those reports before the midnight deadline. In drawing the maps I believe I can speak for Dr. McDonald and myself in saying we made every effort to ensure they followed all federal, state constitution and Ohio Supreme Court direction. But we did not have time to run and review the reports that would have confirmed that.

20. And there was no time for any of the following:

- a. Balancing the compactness and partisan symmetry requirements of Section 6 as directed by the Ohio Supreme Court;

- b. Addressing any of the Commission's requested revisions to the map (the change in Mahoning County and the Auditor's requested alternative map with redrawn House districts in Toledo and Cincinnati);
- c. Delivering the map for any substantive review by Commission staff, much less by the Commissioners themselves, such as the review that led to Senator Huffman's note in the afternoon meeting that the House map at the time unconstitutionally split Cleveland Heights;
- d. Reviewing the maps to determine if there was a way to eliminate any relevant pairings among the three House districts and four Senate districts that contained pairings.

21. I also had no time to analyze, much less to present to the Commission, the challenges involved in balancing the partisan symmetry requirements of the Supreme Court rulings on Section 6 with the compactness requirements of Section 6. Nor was there any time to incorporate or even attempt any significant Commission requests for amendments other than Mr. Glassburn's "seven counties" map idea included by Mr. Glassburn.

22. The work of Dr. McDonald and I was highly constrained by the combination of (1) the state's extremely complex geographic features; (2) the state's extremely complex rules for pairing and uniting those geographic features; and (3) the extremely limited window of time to draw the maps. I hope that the final maps submitted by me (and on behalf of Dr. McDonald) met the constitutional requirements of Sections 2, 3, 4, 5 and 7, and Dr. McDonald and I made every effort as we were drawing the maps to follow those requirements, but I did not have the time to conduct the detailed review to confirm whether that is the case.

FURTHER THE AFFIANT SAYETH NAUGHT.

This the 3rd day of April, 2022.

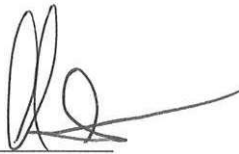
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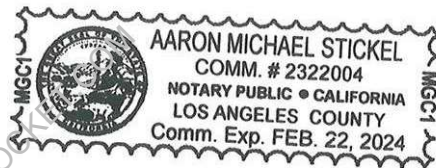

Dr. Douglas Johnson

SWORN TO AND SUBSCRIBED BEFORE ME

This the 3rd day of April, 2022.

AARON MICHAEL STICKEL
Notary Public





My Commission Expires:

02-22-2024



Douglas Johnson

Current Employment

President, National Demographics Corporation, 2006 – present

Research

Research Affiliate, Rose Institute of State and Local Government at Claremont McKenna College, 2001 – present

Past Employment

Senior Analyst, National Demographics Corporation, 2001 – 2006

Project Manager and Senior Manager at three internet startup companies, 1999 – 2001

U.S. Representative Stephen Horn, Legislative Director and System Manager, 1993 – 1997

Coro Foundation, Fellowship in Public Affairs, 1992 – 1993

Rose Institute for State and Local Government, Student Manager, 1989 – 1992

Education

Ph.D.: Claremont Graduate University, Political Science, 2015, Dissertation: "*Independent Redistricting Commissions: Hopes and Lessons Learned.*"

MBA: UCLA Anderson Graduate School of Management, 1999

BA: Claremont McKenna College, 1992

Graduated Cum Laude and Phi Beta Kappa from Claremont McKenna College, with the Philip Roland Prize for Excellence in Public Policy

Publications and Articles

- [Quiet Revolution in California Local Government Gains Momentum](#), Rose Institute of State and Local Government White Paper on California Voting Rights Act, November 3, 2016.
- [Visalia Times](#), "How to draw new city council districts," September 19, 2014.
- [Christian Science Monitor](#) "Let the public help draw voting districts," October 25, 2013.
- [Redistricting in America](#). Rose Institute of State and Local Government, 2010.
- [New York Times](#), "The Case for Open Primaries," February 19, 2009.
- [Los Angeles Times](#) Opinion Articles:
 - "A neighbor's help on redistricting" June 24, 2007.
 - "A Trojan horse primary for the GOP" February 25, 2007.
 - "Where a porn palace stood" (article on redevelopment in Long Beach, California), July 30, 2006.

- Restoring the Competitive Edge: California's Need for Redistricting Reform and the Likely Impact of Proposition 77. Rose Institute of State and Local Government, 2005.
- Competitive Districts in California, Rose Institute of State and Local Government, 2005.
- Fresno Bee Opinion Article: "The Poison Handshake" June 15, 2004.
- Latinos and Redistricting: "Californios For Fair Representation" and California Redistricting in the 1980s. Rose Institute of State and Local Government, 1991.
- Quoted hundreds of times in newspaper, radio and television, including interviews on CNN, the Los Angeles PBS Affiliate, Fox, and in the 2010 documentary "Gerrymandering."

Speaker or Panelist

- California School Board Association, Panelist: "Voter Districts: The Link Between Strong Community Engagement and a Successful Process," November 30, 2018 (upcoming).
- California League of Cities, Mayors and Councilmembers Executive Forum, Moderator, "The California Voting Rights Act and the District-Drawing Process," June 29, 2018.
- League of Women Voters of Burbank and Glendale, Keynote Speaker, "Town Hall meeting on SB415" (The California Voter Participation Rights Act), May 8, 2018.
- California League of Cities, City Attorney Department, panelist, "The California Voting Rights Act: Recent Legislation & Litigation Outcomes," May 3, 2018.
- California League of Cities, City Clerk Department, keynote, "California Voting Rights Act – Transitioning From At-Large To By-District Elections: A Practical Guide For City Clerks," April 19, 2018.
- California School Board Association, Panelist: "15 Years Later: The California Voting Rights Act & Lessons Learned," December 1, 2017.
- California League of Cities, City Clerk Department, Panelist: "California Voting Rights Act: Putting the 2016 Legislation into Practice," April 13, 2017.
- California League of Cities, Riverside County Chapter, presenter: "The California Voting Rights Act and Redistricting: The Demographer's Perspective," May 9, 2016.
- California League of Cities, Inland Empire Chapter, presenter: "The California Voting Rights Act and Redistricting: The Demographer's Perspective," April 14, 2016.
- California School Board Association, Panelist: "The California Voting Rights Act: What Board Members Must Know," December 4, 2015.
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2011 Winter Forum, "Citizen Voting Age Data from a line-drawer's viewpoint."
- Luncheon Keynote Speaker, Santa Barbara's Channel Cities Club, "California's next experiment: independent, public redistricting," January 18, 2011.
- Annual Conference, Arizona League of Cities and Towns, Presenter at "Redistricting Law and the Voting Rights Act: What It Means for Your City or Town in 2011," August 25, 2010.
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2010 Spring Forum, "Communities of Interest in Redistricting: A key to drawing 2011 plans (and for their defense)."
- Arizona Election Law 2010 Continuing Legal Education Conference, "Communities of interest and technology in redistricting," sponsored by the Arizona State Bar Association, March 2010
- Redistricting, The 2010 Census, and Your Budget, Sponsored by the Rose Institute of State and Local Government, California League of Cities, October 15, 2009.
- California's New Independent Redistricting Commission, sponsored by the Irvine Foundation and the California Redistricting Collaborative, December 15, 2009
- Tribal Association of Sovereign Indian Nations (TASIN) Legislative Day 2009, "The 2010 Census and 2011 Redistricting in California," December 2, 2009.
- California School Board Association, "Litigation Issues and the California Voting Rights Act," December 4, 2009.

- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2009 Fall Forum, "The Key to Successful Redistricting."
- California Latino School Boards Association, "Introduction to the California Voting Rights Act," August 20, 2009.
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2008 Spring Forum, "Communities of Interest In Redistricting: A Practical Guide."
- Voices of Reform, a project of the Commonwealth Club of San Francisco: multiple forums on redistricting and / or term limits, 2006 – 2007
- National Conference of State Legislatures, Redistricting and Elections Standing Committee: 2007 Spring Forum, "The Arizona Independent Redistricting Commission's experiences with the first-ever independent redistricting."
- "Building a National Reform Movement," Salt Lake City, Utah, conference on redistricting reform hosted by the League of Women Voters, Campaign Legal Center, and The Council for Excellence in Government, 2006
- Texas Tech University, "A Symposium on Redistricting," May, 2006
- California League of Cities, "Introduction to the California Voting Rights Act."
- Classroom speaker at Pepperdine University, the University of La Verne, Pomona College, Claremont McKenna College, and Bellflower High School.

Independent and Advisory Commission Redistricting Projects

- City of Menlo Park Advisory Districting Commission, lead technical consultant, 2018
- Arizona Independent Redistricting Commission, lead technical consultant, 2001-2008
- San Diego City Council Independent Redistricting Commission, lead technical consultant, 2011
- City of Surprise Advisory Commission on Redistricting, 2011
- Pasadena City Council Advisory Commission on Redistricting, co-lead technical consultant, 2011
- Pasadena Unified School Board Advisory Commission on Redistricting, co-lead technical consultant, 2011
- City of Modesto Independent Redistricting Commission, lead technical consultant, 2011
- City of Modesto Independent Districting Commission, lead technical consultant, 2008

Traditional Districting and Redistricting Projects

- Initial as Senior Analyst and later as President, Dr. Johnson led NDC's work on **over 250** districting and redistricting projects across California, Nevada and Arizona between 2001 and today. Many are listed on NDC's [sample client list page](#).

Expert Witness Testimony and other Litigation Experience

- Expert witness declaration for the City of Redondo Beach, California, in *City of Redondo Beach vs State of California*, Los Angeles County Superior Court Case No. BS172218, litigation regarding the California Voter Participation Act (currently pending).
- Expert witness declaration for West Contra Costa Unified School District in *Ruiz-Lozito vs West Contra Costa Unified School District* litigation under the California Voting Rights Act, Contra Costa Superior Court Case Number C18-00570 (currently pending).
- Expert witness declaration, deposition and testimony for Kern County, California, in *Luna v County of Kern* litigation under the Federal Voting Rights Act.
- Expert witness declaration and testimony for North Carolina in *Covington v State of North Carolina* litigation under the Federal Voting Rights Act.
- Expert witness declaration for City of Fullerton in *Jamarillo v City of Fullerton* litigation under the California Voting Rights Act.

- Expert witness declaration for City of Whittier in *Diego v City of Whittier* litigation under the California Voting Rights Act.
- Expert witness declaration and deposition for plaintiff in *Harris vs Arizona Independent Redistricting Commission* litigation.
- Expert witness declaration and deposition for Santa Clarita Community College District in *Solis v Santa Clarita Community College District* litigation under the California Voting Rights Act.
- Expert witness declaration, deposition and testimony for City of Highland in *Garrett v City of Highland* litigation under the California Voting Rights Act.
- Expert witness declaration, deposition and testimony for City of Palmdale in *Jauregui et al vs City of Palmdale* and *Garrett v City of Highland* litigation under the California Voting Rights Act.
- Testified as 30(b)(6) "Most Knowledgeable" witness for Arizona Independent Redistricting Commission in *Arizona Minority Coalition v Arizona Independent Redistricting Commission*, including seven days of direct testimony and cross-examination in the state court case. Also testified in the related federal court case.
- Consulting expert for the following jurisdictions on their California Voting Rights Act-related cases, including preparing analysis and assisting with witness and attorney preparation:
 - City of Anaheim
 - City of Compton
 - City of Modesto
 - City of Poway
 - City of Santa Clara
 - City of Santa Clarita
 - City of Whittier
 - Santa Clarita Community College District
 - Tulare Health Care District.

Charter and/or Ballot Language Consultant

- City of **El Cajon**: consulted on writing of charter revision and public education campaign for ballot measure changing from at-large to by-district City Council elections. (2016)
- **Castaic Lake Water Agency and Newhall County Water District** consultant advising on process, rules and legislation language for merger of the two districts including changing from at-large to by-district election system. (2015-2016)
- City of **Corona**: consultant for City Council on a potential city charter and a move to by-district elections. (2015-2016)
- City of **Pasadena** (on behalf of Pasadena Unified School District): advised commission that successfully developed a city charter change moving Pasadena Unified from at-large to by-district elections and created a redistricting commission. (2011 – 2012)
- City of **Menifee**: advised commission considering language on by-district elections. (2009 – 2010)
- City of **Modesto**: advised commission that successfully developed a city charter change moving Pasadena Unified from at-large to by-district elections and created an independent redistricting commission. (2006 – 2008)
- City of **Goleta**: consulted on development of ordinances and ballot language asking voters what election system they preferred. (2003 – 2004)

Racial Bloc Voting Analysis

Extensive experience with all racial bloc voting statistical methods: homogeneous precinct analysis, Ordinary Least Squares (OLS) regression, Weighted OLS, Seemingly Unrelated Regression (SUR) and EZI ecological inference analysis.

Attorney-client privilege bars the listing of most of NDC's specific clients, but NDC has performed racial bloc voting analysis for clients of the following law firms: Nielsen, Merksamer, Parrinello, Gross & Leoni; Lozano, Smith; Atkinson, Andelson, Loya, Ruud & Romo; Dooley, Herr & Peltzer; Fagen Friedman & Fulfroost; Rutan & Tucker; among others.



Exhibit C

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Ohio Association Of Election Officials

The Election Professionals

FOR IMMEDIATE RELEASE

April 18th, 2022

CONTACT: AARON OCKERMAN
aaron@ockermanconsulting.com
614) 581-8238

ELECTION OFFICIALS PRESS FOR AUGUST 2 PRIMARY

COLUMBUS, OH- In response to an Ohio Supreme Court ruling suggesting that Ohio should delay its second primary election to a date later than August 2nd, the Ohio Association of Election Officials released the following statements.

"Ohio simply must hold its second primary election on August 2nd if we are to successfully navigate the rest of 2022. August 2nd is the key to both a successful second primary and a successful general election in November," said OAEO president Brian Sleeth.

"The Ohio Secretary of State succinctly, clearly and factually laid out to the federal district court why August 2nd is so important," added OAEO First Vice-President Sherry Poland. "Ohio has unique and important deadlines that will be negatively impacted if the election date is set any earlier or any later than August 2nd."

Ohio has a generous early voting period of 28 days, a requirement to mail overseas and military ballots 46 days before the election, and complex requirements for testing voting systems and proofing ballots that all would be impacted by any date other than that suggested by the Secretary of State. 2022 involves added complexities as boards of elections must incorporate new legislative district boundaries into multiple IT systems, a task that can take up to two weeks in some counties.

"One dissenting justice compared the redistricting process to the movie Groundhog Day. It is an apt description for election officials who feel like Bill Murray. Indeed, we are trapped in an endless cycle of fits and starts, unable to begin or conclude the important work our voters expect us to complete. The suggestion that a date other than August 2nd will work has only served to redouble confusion and consternation, just as we were beginning to see a path out of this mess," stated Sleeth.

"The federal court or the legislature must put their foot down. We need to move beyond Groundhog Day. We need to draw this primary process to a conclusion on August 2nd," concluded Poland.

In addition to serving as President of OAEO, Brian Sleeth is Director of the Warren County Board of Elections. In addition to serving as First Vice-President of OAEO, Sherry Poland serves as Director of the Hamilton County Board of Elections. The Ohio Association of Election Officials is a bipartisan organization representing Ohio's 88 county boards of elections and their staff members. Its mission is to promote fair, accurate and reliable elections through the education of its members, advocating for sound election policies, and communicating accurate information regarding the administration of elections.

Exhibit D

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**Statement to the Ohio Redistricting Commission
by Ohio Secretary of State Frank LaRose
Regarding Logistical Realities of Administering
a 2022 General Assembly Primary Election**

As of today, a primary election date for the offices of State Representative, State Senator, and political party State Central Committee member has not been established.

The Ohio General Assembly has the sole authority in the Ohio Revised Code (3501.40) to set the time, place, and manner of a public election conducted in the State of Ohio. The only other government entity that can supersede that authority is a federal court of law.

A three-judge panel assigned to consider the Ohio General Assembly redistricting case *Gonidakis, et al. v. LaRose*, Case No. 2:22-CV-773 (S.D. Ohio), has ordered that if the State does not adopt a lawful district plan and set a primary election date before May 28, "... we will order the primary be moved to August 2 and Map 3 be used for only the 2022 election cycle. After that, Ohio will have to pass a new map that complies with federal and state law."

As of this date, the Ohio General Assembly has not set a primary election date for the above-mentioned contests. Any action doing so would require an emergency clause to make the election date and its associated deadlines effective immediately. The Speaker of the Ohio House and the President of the Ohio Senate have indicated publicly that they lack the required two-thirds vote in both chambers to enact emergency legislation for this purpose; therefore, the only remaining option to conduct a primary election to which Ohio voters are entitled is the prescribed action by the federal district court.

My office and the bipartisan Ohio Association of Elections Officials have repeatedly stated that because August 2, 2022 is already reserved for "special elections" in Ohio law, it is the only date on which a statewide primary election can be conducted in advance of the scheduled General Election (November 8, 2022).

August 2, 2022 is also the latest date by which Ohio can conduct a primary election without overlapping or altering the scheduled timeline to successfully administer a General Election. This is also recognized by the three-judge panel in *Gonidakis, et al. v. LaRose* and uncontested by any of the parties involved in that litigation.

Under Ohio law, elections are conducted over at least a 90-day period. Eighty-nine days now stand between this date and August 2, 2022, putting Ohio within the traditional statutory window for administering its next election.

The federal panel majority in *Gonidakis, et al. v. LaRose* stated clearly that for any new district plan to be utilized for an August 2, 2022 primary election – and to have the benefit of a full, 90-day election administration period – the Commission would need to adopt it by April 20, 2022. Their opinion is based on testimony from my staff that the 88 county boards of election would collectively need at least two weeks to reprogram their computer systems to new House and Senate districts before the full, 90-day primary election period would begin, which would also do the least amount of damage to current Ohio election law.

To administer an August 2 primary election, the boards must meet a series of statutory and administrative deadlines to have the first ballots, known as Uniformed and Overseas Citizens

Absentee Voting Act (“UOCAVA”) ballots, prepared no later than June 17, 2022 (46 days before the election). To achieve this, elections officials must meet the following statutory requirements:

- Certify candidates no later than **78 days before** the primary election. R.C. 3513.05.
- Hold protests against certified candidates no later than **74 days before** the primary election. R.C. 3513.05.
- Determine the validity or invalidity of the declaration of candidacy and petition. R.C. 3513.05.
- Receive write-in candidates declarations of intent for partisan offices no later than **72 days before** the primary election. R.C. 3513.041.
- Hold protests against write-in candidates no later than **67 days before** the primary election. R.C. 3513.041.
- The Secretary of State must certify to boards of elections the form of official ballots no later than **70 days before** the primary election. R.C. 3513.05.
- Board of elections of the most populous county in a multi-county district must certify names of all candidates to the other county boards of elections in the district no later than **70 days before** primary election. R.C. 3513.05.

Boards of elections need at least two weeks to reprogram voter registration and tabulation systems to accommodate a new map, which as of this date takes us to at least May 19. At that point, the boards would already be in violation of state law unless the General Assembly changes the statutory deadlines. Additionally, my office would not instruct the boards to deprogram Map 3 before May 28, risking that the new map could be invalidated with no immediate options to administer a primary election. This administrative delay also reduces or nearly eliminates the required process election officials must complete to conduct testing on all voting equipment, proof ballots, test ballots, recruit poll workers, and order absentee and Election Day ballots.

In summary:

- The last date a new map could have been ordered and implemented without altering current statutory deadlines that precede an August 2, 2022 primary election was April 20, 2022.
- The General Assembly has not set a new primary date, and its leaders have publicly stated they do not have the votes to pass emergency legislation to do so.
- All but two of Ohio’s 88 county boards of elections have fully programmed the third General Assembly district plan adopted by the Ohio Redistricting Commission.
- A majority of the federal panel considering *Gonidakis, et al. v. LaRose* recognized that Map 3 has “administrative advantages” of implementation that no other map produced by the Commission to date presents, including a largely completed candidate certification process that also would not require the revisiting of filing deadlines and residency provisions.

Therefore, Map 3 is the only viable option to effectively administer a primary election on August 2, 2022. If on May 28, 2022, the federal court orders that Ohio use Map 3 and sets the primary election date on August 2, 2022, my office will issue a directive to the boards of elections implementing that order and providing detailed instructions on the administration of a successful primary election.

Exhibit E

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2022		Reference
Apr. 05**	Absentee ballots for May 3 primary election must be ready for use (first day after close of voter registration)	R.C. 3509.01 S.B. 11
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
Apr. 11	Secretary of State and boards of elections must send notice to candidates required to file pre-primary campaign finance reports (10 days before the pre-primary campaign finance report deadline)	R.C. 3517.11
Apr. 13	Committees advocating or opposing issues on May 3 primary election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before primary election)	R.C. 3505.21
Apr. 19	Boards of elections must prepare precinct voter registration lists (14 days before primary election)	R.C. 3503.23
Apr. 21	Pre-primary election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before primary election) detailing contributions and expenditures through April 13, 2022 (20 days before primary election)	R.C. 3517.10
Apr. 22	Deadline for political parties, groups of candidates and recognized issue committees to file notice of observer appointments (11 days before primary election)	R.C. 3505.21
Apr. 23	Boards of elections must give public notice of May 3 primary election (10 days before primary election)	R.C. 3501.03
Apr. 24	Boards of elections must prepare and publish notices of the August 2 special election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before special election)	R.C. 3511.16
Apr. 25*	Certificate to fill vacancy on ballot caused by death of candidate whose name is on May 3 primary election ballot in more than one county must be filed by 4 p.m. (10 days before primary election)	R.C. 3513.30
Apr. 28	Certification to fill vacancy on ballot caused by death of candidate whose name is on May 3 primary ballot in only one county must be filed by 4 p.m. (five days before primary election)	R.C. 3513.30
Apr. 30	Applications for absentee ballots to be mailed for May 3 primary election must be received by boards of elections by noon (three days before primary election)	R.C. 3509.03, 08, 3511.02
May 02	Nominating petitions of independent candidates for offices for which a primary election may be held must be filed by 4 p.m. (one day before primary election)	R.C. 3513.257
	Amendments to observer appointments must be filed by 4 p.m. (day before primary election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the primary election)	R.C. 3501.29
May 03	Primary Election Day. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, 32
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
May 04	Local questions and issues for the August 2 special election must be certified or filed with the boards of elections by 4 p.m. (90 days before the special election)	R.C. 3501.01, 02
May 13	Absentee ballots returned by U.S. Mail must be postmarked no later than May 2 and received by boards of elections by this date to be counted (10 days after primary election)	R.C. 3509.05, 3511.11
May 23**	UOCAVA absentee ballots must be received by boards of elections by this date to be counted (20 days after primary election)	S.B. 11
May 24**	Boards of elections may begin official canvass of May 3 primary election ballots (21 days after primary election)	S.B. 11
May 25**	Boards of elections must begin official canvass of May 3 primary election ballots no later than this date (22 days after primary election)	S.B. 11
May 27**	Boards of elections must complete official canvass of May 3 primary election ballots no later than this date (24 days after primary election)	S.B. 11
May 31	Secretary of State and boards of elections must send notice to candidates required to file post-primary campaign finance reports (10 days before the post-primary campaign finance report deadline)	R.C. 3517.11
Jun. 03	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before special election)	R.C. 3501.27
Jun. 10	Post-primary election campaign finance reports must be filed by candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after primary election) detailing contributions and expenditures through June 3, 2022 (seven days before the report is filed)	R.C. 3517.10
Jun. 15	Boards of elections of most populous county of a district located in more than one county must transmit petitions of independent candidates to other boards of elections	R.C. 3513.262
Jun. 16	Last day for local option petitioners to send street listing to Division of Liquor Control (55 days before August 10 deadline for filing petitions for November 8 general election)	R.C. 4301.33, 4305.14
Jun. 17	UOCAVA absentee ballots for August 2 special election must be ready for use (46 days before special election)	R.C. 3511.04
	Boards of elections must update and publish notices of August 2 special election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before special election)	R.C. 3511.16
Jun. 21	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (six weeks before special election)	R.C. 3503.12
Jul. 05*	Deadline for voter registration for August 2 special election (30 days before special election)	R.C. 3503.19
	Last day for local opinion petitioners seeking to sell at a community facility to send street listing to Division of Liquor Control (30 days before August 2, 2022 deadline to file petitions for November 8, 2022 general election)	R.C. 4301.334
	Deadline to file corrections and challenges to precinct voter registration lists (30 days before special election)	R.C. 3503.24
Jul. 06	Non-UOCAVA absentee ballots for August 2 special election must be ready for use (first day after close of voter registration)	R.C. 3509.01
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
	Constitutional amendments or statutes proposed by initiative petitions to be submitted directly to the voters must be filed with Secretary of State (125 days before general election)	OH Const. II, §§1a-1b
Jul. 13	Committees advocating or opposing issues on August 2 special election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before special election)	R.C. 3505.21
Jul. 15	Boards of elections must certify independent candidate petitions by this date	R.C. 3513.262
Jul. 19	Boards of elections must prepare precinct voter registration lists for special election (14 days before special election)	R.C. 3503.23
	Secretary of State and boards of elections must send notice to candidates required to file semiannual campaign finance reports (10 days before the semiannual campaign finance report deadline)	R.C. 3517.11
Jul. 22	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before special election)	R.C. 3505.21
Jul. 23	Boards of elections must give public notice of August 2 special election (10 days before special election)	R.C. 3501.03
Jul. 29	Semiannual election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (last business day of July) detailing contributions and expenditures through June 30, 2022 (last day of June)	R.C. 3517.10
Jul. 30	Applications for absentee ballots to be mailed for August 2 special election must be received by noon (3 days before special election)	R.C. 3509.03, 08, 3511.02
Jul. 31	Boards of elections must prepare and publish notices of November 8 general election and provide the notices to federal write-in absentee voters upon request (no later than 100 days before the general election)	R.C. 3511.16
Aug. 01*	Protests against independent candidates nominated by petition must be filed by 4 p.m.	R.C. 3513.262
	Amendments to observer appointments must be filed by 4 p.m. (day before special election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than the day before the special election)	R.C. 3501.29
Aug. 02	Special Election may be held. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, 32
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
Aug. 10	Constitutional amendments proposed by joint resolution of General Assembly must be filed with Secretary of State (90 days before general election)	OH Const. XVI, §1
	Nominating petitions of candidates in nonpartisan races must be filed by 4 p.m. (90 days before general election)	R.C. 1907.13, 3513.259, 3513.263
	Local questions and issues for November 8 general election, including local option petitions, must be certified to or filed with boards of elections by 4 p.m. (90 days before general election)	R.C. 731.28, 29, 3501.02, 4301.33, 331, 332, 333, 334, 4305.14
Aug. 12	Absentee ballots for August 2 special election returned by U.S. Mail must be postmarked no later than August 1 and received by boards of elections by this date to be counted (10 days after special election)	R.C. 3509.05, 3511.11
	UOCAVA absentee ballots for August 2 special election must be received by boards of elections by this date to be counted (10 days after special election)	R.C. 3511.11

*Note: In some instances, the statutory deadline falls on a day when the offices of the Secretary of State and boards of elections are closed. In those instances, the deadlines are extended, pursuant to R.C. 1.14, to the next succeeding day when the appropriate office is open for regular business hours. The preceding dates reflect the extended deadline.

**Dates resulted from temporary law or Secretary of State Directive.

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2022		Reference
Aug. 13	Boards of elections may begin official canvass of August 2 special election ballots (11 days after special election)	R.C. 3505.32
Aug. 15*	Political party or independent candidate nominating committees must certify name of person to fill vacancy on November 8 general election ballot caused by withdrawal or disqualification of candidate by 4 p.m. (86 days before general election)	R.C. 3513.31
Aug. 17	Boards of elections must begin official canvass of August 2 special election ballots no later than this date (15 days after special election)	R.C. 3505.32
Aug. 22	Boards of elections must certify the validity and sufficiency of candidates' petitions in nonpartisan races (78 days before general election)	R.C. 3513.263
	Boards of elections must certify the validity and sufficiency of local option petitions (78 days before general election)	R.C. 4301.33, 331, 332, 333, 334, 4305.14
Aug. 23	Boards of elections must complete official canvass of August 2 special election ballots no later than this date (21 days after special election)	R.C. 3505.32
Aug. 26	Protests against candidates for nonpartisan office must be filed by this date (74 days before general election)	R.C. 3513.263
	Protests against local option petitions must be filed by 4 p.m. (74 days before general election)	R.C. 4301.33, 331, 332, 333, 334, 4305.14
Aug. 29*	Write-in candidates must file declarations of intent by 4 p.m. (72 days before general election)	R.C. 3513.041
Aug. 30	Secretary of State must certify to boards of elections the form of official ballots for November 8 general election (70 days before general election)	R.C. 3505.01
	Board of elections of most populous county of a multi-county district must certify names of all candidates to other boards of elections (70 days before general election)	R.C. 3505.01
Sep. 02	Protests against write-in candidates for general election must be filed by 4 p.m. (67 days before general election)	R.C. 3513.041
Sep. 09	Boards of elections must schedule a program for instruction of precinct election officials (within 60 days before general election)	R.C. 3501.27
Sep. 23	UOCAVA absentee ballots for November 8 general election must be ready for use (46 days before general election)	R.C. 3511.04
	Boards of elections must update and publish notices of November 8 general election and provide the notices to federal write-in absentee voters upon request (no later than 46 days before general election)	R.C. 3511.16
Sep. 27	Boards of elections must advertise in newspaper(s) the places, dates, times, qualifications, and methods for voter registration (6 weeks before general election)	R.C. 3503.12
Oct. 11*	Deadline for voter registration for November 8 general election (30 days before general election)	R.C. 3503.19
	Deadline to file corrections and challenges to precinct voter registration lists (30 days before general election)	R.C. 3503.24
Oct. 12	Non-UOCAVA absentee ballots for November 8 general election must be ready for use (first day after close of voter registration)	R.C. 3509.01
	Early in-person absentee voting begins (first day after close of voter registration)	R.C. 3509.01
Oct. 17	Secretary of State and boards of elections must send notice to candidates required to file pre-general campaign finance reports (10 days before the pre-general campaign finance report deadline)	R.C. 3517.11
Oct. 19	Committees advocating or opposing issues on November 8 general election ballot must file by 4 p.m. to be recognized as a committee to appoint observers (20 days before general election)	R.C. 3505.21
Oct. 25	Boards of elections must prepare precinct voter registration lists for general election (14 days before general election)	R.C. 3503.23
Oct. 27	Pre-general election campaign finance reports must be filed by certain candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (12 days before general election) detailing contributions and expenditures through October 19, 2022 (20 days before general election)	R.C. 3517.10
Oct. 28	Deadline for political parties, groups of candidates and issue committees to file notice of observer appointments (11 days before general election)	R.C. 3505.21
Oct. 29	Boards of elections must give public notice of November 8 general election (10 days before general election)	R.C. 3501.03
	Certificate to fill vacancy on November 8 general election ballot caused by death of candidate nominated at primary election whose name is on ballot in more than one county (10 days before general election)	R.C. 3513.31
Nov. 03	Certificate to fill vacancy on November 8 general election ballot caused by death of independent or nonpartisan candidate prior to October 29 (10 days before general election) must be filed by 4 p.m. (five days before general election)	R.C. 3513.31
	Certificate to fill vacancy on November 8 general election ballot caused by death of candidate nominated at primary election whose name is on ballot in only one county must be filed by 4 p.m. (five days before general election)	R.C. 3513.31
Nov. 05	Applications for absentee ballots to be mailed for November 8 general election must be received by boards of elections by noon (three days before general election)	R.C. 3509.03, 3511.02
Nov. 07	Amendments to observer appointments must be filed by 4 p.m. (one day before general election)	R.C. 3505.21
	Boards of elections must submit verification forms of handicapped accessible parking and handicapped accessible polling locations to the Secretary of State's Office (no later than one day before general election)	R.C. 3501.29
Nov. 08	General Election Day. Polls open from 6:30 a.m. to 7:30 p.m.	R.C. 3501.01, 352
	If voter, or voter's minor child is hospitalized because of accident or medical emergency, voter may apply for an absentee ballot until 3 p.m.	R.C. 3509.08
	Boards of elections must receive absentee ballots, returned in person or via a method other than U.S. Mail, by the close of polls	R.C. 3509.05, 3511.11
Nov. 18	Absentee ballots returned by U.S. Mail must be postmarked no later than November 7 and received by boards of elections by this date to be counted (10 days after general election)	R.C. 3509.05, 3511.11
	UOCAVA absentee ballots must be received by boards of elections by this date to be counted (10 days after general election)	R.C. 3511.11
Nov. 19	Boards of elections may begin official canvass of November 8 general election ballots (11 days after general election)	R.C. 3505.32
Nov. 23	Boards of elections must begin official canvass of November 8 general election ballots no later than this date (15 days after general election)	R.C. 3505.32
Nov. 29	Boards of elections must complete official canvass of November 8 general election ballots no later than this date (21 days after general election)	R.C. 3505.32
Dec. 06	Secretary of State and boards of elections must send notice to candidates required to file post-general election campaign finance reports (10 days before the post-general campaign finance report deadline)	R.C. 3517.11
Dec. 08	Last day for certain local option petitioners to send street listings to Division of Liquor Control (55 days before February 1, 2023 petition filing deadline for May 2, 2023 primary/special election)	R.C. 4301.33, 4305.14
Dec. 16	Post-general election campaign finance reports must be filed by candidates, political action committees, caucus committees (legislative campaign funds), and political parties by 4 p.m. (38 days after general election) detailing contributions and expenditures through December 9, 2022 (the 7th day before the report is filed)	R.C. 3517.10
2023		Reference
Jan. 01	Applications for absentee ballots for all elections held in 2023 may be accepted (first day of the year)	R.C. 3509.03, 3511.02
Jan. 03*	Last day for local option petitioners contesting community facility to send street listings to Division of Liquor Control (30 days before February 1 petition filing deadline for May 2 primary/special election)	R.C. 4301.334
Recounts and Election Contests		
Application for a recount must be filed no later than 5 days after official results are declared.		R.C. 3515.02
A petition contesting an election must be filed in the appropriate court within 15 days after the official results are declared or, if a recount of the election is conducted, within 10 days after the official results of a recount are declared.		R.C. 3515.09

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